



VAT implications on services provided by Artists and Social Media Influencers

Introduction

The Federal Tax Authority ('FTA') has released a Basic Tax Information Bulletin ('Bulletin') for Artists and Social Media Influencers ('SMIs') who are working as independent consultants/ freelancers. The Bulletin outlines the VAT implications that apply to Artists and SMIs and also throws some clarity on certain open issues.

Bulletin Synopsis

- 'Artists' may include performers, singers, dancers, stage artists, make-up artists, DJs, poets, song writers or any other individuals carrying out other activities in their personal capacity.
- 'SMIs' are the individuals who provide their services such as physical appearances, posts, advertisement, etc using social media platform i.e., YouTube, Instagram, Twitter, Facebook, etc to promote products and services.
- Services supplied by Artists and SMIs for a consideration are generally treated as taxable at 5% unless specifically exempt or zero-rated under the VAT Law.
- If an Artist or SMI incurs any cost to make a supply and subsequently recovers such cost from its client,

such recovery shall be treated as reimbursement and taxable at 5%.

- Artists and SMIs are mandatorily required to register for VAT if the value of their taxable supplies (which includes zero rated supplies) and imports in the last 12 months exceed AED375,000 or is anticipated to exceed in the next 30 days. They may register voluntarily if the value exceeds AED187,500.
- Non-resident Artists and SMIs are required to register for VAT if –
 - They make taxable supplies
 - Place of supply is in the UAE
 - No other person is obligated to account VAT on such supplies

To illustrate the above, if a non-resident Artist provides drawing services to a VAT registered Company in the UAE, the place of supply shall be within the UAE and the Company is obligated to account VAT under reverse charge mechanism. Hence, non-resident Artist is not required to register.

Conversely, if the above-mentioned service is provided to unregistered individuals or businesses in the UAE, such non-resident Artist would be required to register and charge VAT.



- It is important to note that there is no registration threshold for non-resident suppliers.
- The Bulletin emphasised that for the purposes of calculating the threshold, all the taxable supplies shall be taken into consideration, even if such supplies do not fall within the scope of their core artistic or influencer activity.
- Artists and SMIs providing taxable supplies are eligible for the recovery of any input VAT with the exception of blocked items such as entertainment services, motor vehicles that are available for personal use, etc.

A key question that arises is whether this applies only to the list of Artists given above OR does it also apply to others providing services in their individual capacity like cricket players. If yes, it could have large impact on the way the events are conducted in the UAE.

Compliance Requirements

- Artists and SMIs must issue tax invoices or simplified tax invoice, as the case may be, for all supplies taxable at the rate of 5%.
- Artists and SMIs should appropriately disclose the transaction in their VAT returns and discharge the VAT liability correctly.

Open issues which are now clarified by the FTA

1. **Barter transactions** - If an Artist or SMI receives goods (such as a mobile phone/ iPad) in addition to cash in return for their services, such goods are treated as consideration for the services rendered. Value of supply for calculating VAT shall be the monetary part (cash) + market value of non-monetary part (i.e., mobile phone/ iPad) received in return of their services. Simultaneously, where the person (registered under VAT) who is giving the goods in exchange for services will also have to account for VAT. The transaction will be treated as a barter transaction.

2. **Deemed Supply** - If an Artist or SMI provides free services, he/ she should identify whether such services would be deemed to be taxable.

3. **Individual Capacity** - An Artist/ SMI working in a Company or owning a Company and also separately providing service in his personal capacity should be considered distinct from the Company and shall be obliged to charge VAT on supplies made in his personal capacity.

4. If Artist or SMI has appointed any agent –

- *The agent acts in the name and on behalf of the Artist or SMI:* The Artist or SMI must account for VAT on the entire amount charged to the client and the agent must account for VAT on the commission charged to the Artist or SMI.
- *The agent acts in its own name and contracts with the client. Separately a contract is entered with the Artist or SMI:* Transaction is treated as back-to-back in nature. In other words, the Artist or SMI must account for VAT on the amount charged to the agent and the agent must account for VAT on the amount charged to the client.

5. UAE resident Artist or SMI providing services (say advertising services performed) outside the UAE to a Company based within the UAE shall be treated as taxable at 5%. This is due to the reason that recipient is based within the UAE and benefit of such service is received by the recipient in the UAE.

Key points to be considered by Artists or SMIs

- ✓ Identify whether the services provided by Artists or SMIs would qualify as taxable supplies under VAT
- ✓ Identify whether the subsequent recovery of expenses by Artists or SMIs will amount to disbursement or reimbursement
- ✓ Identify the supplies which do not fall within the scope of core artistic or influencer activity. For e.g.- support services, advisory services etc. Whether the same is considered for the purpose of charging VAT

- ✓ Check whether the non-resident Artist or SMI is providing service to a registered recipient or unregistered recipient under VAT. If services are provided to an unregistered recipient than such Artist or SMI needs to obtain registration under the VAT
- ✓ Artists or SMIs need to check whether they have undertaken any barter transaction
- ✓ Artists or SMIs need to consider VAT implication to free services that they provide



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