

## 16<sup>th</sup> Public Clarification – B2B supplies of Healthcare Services

### Introduction

The Federal Tax Authority ('FTA') has recently issued a Public Clarification (VATP016) on Business to Business ('B2B') supplies of Healthcare Services ('Services').

The clarification explains the VAT treatment on Services rendered by Healthcare Institutions and Healthcare Practitioners (together known as 'Healthcare Institutions') to another Healthcare Institution(s).

### Issue

The Federal Decree Law No. 8 of 2017 ('UAE VAT Law') read with Cabinet Decision No. 52 of 2017 ('Executive Regulations') provides that healthcare services *which are necessary for the **treatment of the Recipient of the supply** including preventive treatment* shall be Zero rated.

The ambiguity was whether the Services rendered by Healthcare Institutions to another Healthcare Institutions are eligible for zero-rating especially considering that the ultimate beneficiary or recipient of such Services are individual patients.

The clarification has reiterated that for the Services to qualify for zero-rating under the UAE VAT Law, the recipient of the Services should be the patient who receives the treatment. In other words, the Healthcare Institutions should identify who the recipient of the supply is in order to be able to determine if the Services rendered should be zero-rated.

The FTA has further clarified that in order to determine who the recipient of the supply is, the following contractual aspects should be considered, unless the contractual terms are so artificial that they do not reflect the reality of the transaction –

- the contractual arrangement between the parties; and
- who is contractually entitled to the services rendered by the Healthcare Institution.

The application of the zero-rating of the Services as mentioned above has been illustrated below –



### Services by a Doctor to the Hospital

- Doctor is engaged by Hospital to provide consultation services to Hospital's Patients
- Hospital is the 'contractual recipient' of the supply even though the service benefits relates to the health of the Patients
- The provision of service by Doctor is to the Hospital and would not qualify as a zero-rated supply
- However, services by Hospital to its patients shall be zero-rated



### Laboratory services to Patients

- Hospital refers its Patients to a Laboratory for medical tests
- The Laboratory provides services directly to Patients (B2C supply)
- The services provided by Laboratory to Patients qualify as zero-rated supply since the service recipient are Patients



### Service by a Hospital to another Hospital

- Hospital A is providing a specialised treatment to its Patient
- Hospital A enters into a contract with Hospital B to perform such treatment
- While Hospital B performs treatment to the Patients, the services are provided by Hospital B to Hospital A as per the contractual obligation
- The services by Hospital B to Hospital A would not qualify as zero rated supply

## Our Comments

This clarification by the FTA provides a clear mechanism on determining the taxability of services rendered by Healthcare Institutions. Many Healthcare Institutions have entered into various arrangements with hospitals or corporates for provision of the Services wherein the ultimate beneficiary is the patient, however VAT may not be discharged on the same. For instance, Mobile Medical Units / Mobile Clinics deployed by Healthcare Institutions for a Corporate / Business Park, medical camp organised by the Corporates for its employees.

This may also impact the taxability of the Services provided under an insurance cover. In order to determine the taxability of the transaction, the Healthcare Institutions needs to identify as to whether the insurer is acting only as a payer or as a service recipient.

It is imperative for the Healthcare Institutions to review the existing contracts entered with other corporates / hospitals and revisit the tax positions adopted on the same.

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