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VAT FAQs for Real Estate in the UAE

FROM OUR GCC LEADER

NIMISH GOEL
GCC Leader

The UAE real estate sector has been a cornerstone of the nation's economic growth, driving significant contributions to the GDP and attracting investments from around the globe. As of 2024, the sector continues to thrive, bolstered by strong demand for residential, commercial, and mixed-use developments.

Recent reports indicate that the UAE's real estate market achieved unprecedented milestones this year. The value of real estate transactions in Dubai exceeded AED 500 billion during the first ten months of 2024, marking a 37% increase compared to the previous year. In Abu Dhabi, residential transactions surged by 56%, reaching AED 67.8 billion in the first nine months of 2024. Sharjah has also emerged as a key player, with real estate sales reaching AED 13.4 billion in the first half of 2024. This growth is reflective of the strong investor confidence across the UAE, as the country remains a preferred destination for both local and international investors.

However, the introduction of VAT in 2018 added a layer of complexity to the real estate sector, necessitating businesses to adapt swiftly to the new tax regime. Initially met with concerns about increased costs and compliance burdens, VAT has since become a critical aspect that real estate companies must manage effectively to ensure financial health and regulatory compliance. The FTA has issued several public clarifications and guidelines, but the intricate nature of real estate transactions continues to pose challenges.

This publication, a first-of-its-kind FAQs guide on VAT issues specific to the UAE's real estate sector, aims to address some of the most complex questions faced by stakeholders.

I am pleased to present this comprehensive guide. It reflects our commitment to providing expert guidance to our clients, ensuring that they are well-equipped to handle VAT-related challenges in the real estate sector. We trust that this publication will serve as a valuable resource for real estate companies, helping them maintain compliance and optimize their tax strategies in an increasingly complex regulatory environment. We would love to hear from you on your feedback and any technical issues that you may wish to discuss.

EXECUTIVE SUMMARY - FROM AUTHORS

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This report is structured in a FAQ format, covering a wide array of topics that are critical for various stakeholders in the real estate industry.

The report aims to provide practical solutions and clarity on the complex VAT landscape, drawing from both publicly available information from the FTA and Dhruva's extensive experience in the field. The report is organized into the following key sections:

- Property Owners – Land
- Property Owners – Residential and Commercial
- Owners' Association
- Property Managers
- Construction Companies
- Master Developers

Each section addresses specific aspects of VAT in the real estate sector, offering detailed explanations and practical insights.

Property Owners – Land

This section focuses on the VAT implications for landowners, differentiating between bare land (which is VAT-exempt) and serviced land (subject to standard VAT rates). It covers specific scenarios such as the treatment of reclaimed land, the VAT status of land leased for temporary structures, and the intricacies of Musataha agreements. The guide provides clear guidance on how these various land transactions should be handled under the UAE VAT law.

Property Owners – Residential and Commercial

Here, the report examines the VAT treatment of residential and commercial properties, highlighting the differences between the two. It explains that the first supply of newly constructed residential properties within three years is zero-rated, while subsequent supplies become VAT-exempt. In contrast, all supplies of commercial properties are subject to the standard VAT rate. The section also addresses issues like joint ownership, the recovery of expenses from tenants, and the handling of payment plans in property sales.

Management Company

The role of OAs and MCs under VAT law is discussed in this section. It explains the correct procedures for collecting and invoicing service charges, the legal requirements for transitioning from real estate entities to management companies, and the VAT implications for unsold units. The guide emphasizes the importance of compliance with the RERA regulations and the use of the Mollak system for invoicing.

Property Manager

This section delves into the VAT treatment of property management activities, distinguishing between disclosed and undisclosed agency arrangements. It provides guidance on how property managers should handle VAT on their commissions, the issuance of invoices, and the management of expenses incurred on behalf of property owners. The section aims to clarify the obligations of property managers in ensuring VAT compliance for the services they provide.

Construction Companies

The guide addresses the VAT implications for construction companies, covering scenarios such as joint ventures, phased developments, and the handling of advance payments. It also discusses the impact of project delays or changes on VAT recovery and the correct treatment of deductions made by clients. This section is particularly relevant for companies involved in the construction of residential and commercial properties, providing them with the necessary tools to manage VAT effectively.

Master Developers

Master developers, who manage large-scale real estate projects, face unique VAT challenges, which are explored in this section. The report explains how VAT is applied to different revenue streams, such as the sale and lease of residential and commercial units and provides guidance on recovering input VAT on common expenses. It also discusses the challenges associated with using the floorspace method for apportioning VAT and offers solutions for dealing with phased developments and changes in project plans.

Conclusion

This guide is an essential resource for anyone involved in the UAE's real estate sector who must navigate the complexities of VAT. By offering detailed answers to frequently asked questions, Dhruva Consultants provide stakeholders with the clarity and insight needed to make informed decisions.

However, it is important to seek professional advice for specific transactions to ensure compliance and accuracy in VAT treatment.

This report, drawing on Dhruva's extensive expertise and authoritative guidance from the FTA, is intended to serve as a practical tool for understanding and managing VAT in the UAE's real estate sector.

VAT can be challenging area to understand, with various rules and regulations affecting different types of transactions especially in the real estate sector.

This guide aims to demystify these complexities, providing clear explanations to practical examples that will help businesses to manage VAT effectively.

From residential and commercial properties to leasing and construction, each chapter addresses the specific VAT considerations.

With extensive experience in the industry and deep understanding of VAT regulations, we intend to share insights that will support and prepare businesses for any VAT related challenges.

CONTENTS

1. PROPERTY OWNERS - LAND

Since the implementation of VAT in the UAE on January 1, 2018, landowners have faced new tax considerations impacting various transactions involving land. VAT has introduced complexities for landowners engaging in sales, leases, and development activities.

Typically, the landowners in the UAE can supply different kinds of rights in their real estate property viz. freehold interest (i.e. absolute transfer of ownership) and other interests (i.e. e.g. grant, usufruct, musataha, leasehold, etc.).

The VAT implications are different for each nature of transactions and hence, understanding these distinctions is crucial for accurate VAT reporting and compliance.

This section provides a foundational understanding of how VAT impacts land transactions in the UAE, helping landowners navigate the tax landscape effectively and maintain compliance with regulatory requirements.

Q1 What constitutes bare land and how is it different from a serviced land?

Bare land is an area devoid of any constructed structures, whether complete or partial, and lacking any civil work protruding above the ground level. It may contain natural elements, such as trees and plants. In contrast, any land featuring man-made structures or protrusions above ground level is classified as serviced land.

Q2 What are the VAT implications associated with bare land as compared to serviced land?

In the UAE, the supply of bare land is exempt from VAT, whereas serviced land is liable for VAT at the standard rate.

> *"What will happen to VAT on expenses incurred for reclaiming land?"*

Q3 What is the VAT treatment associated with reclaimed land?

Reclaimed land refers to the process of creating new land by displacing seawater, typically from oceans, seas, riverbeds, or lake beds. It is entirely man-made and not a natural geographical feature.

Consequently, there is substantial effort and money required to create this structure. If there is no man- made construction or elevated structures on the reclaimed land, it should be categorized as bare land and be exempt from VAT. At present, there is no publicly available guidance on this matter in the UAE.

Notably, the Real Estate Guide published by the Revenue Department of Bahrain explicitly states that reclaimed land does not qualify as a new building construction, thereby having an impact on the cost of reclamation.

Q4 A plot of land is rented to be used as portable offices, car parking, storage, security cabins, etc. What should be the tax treatment?

Artificial temporary structures, such as movable offices, security cabins, storage sheds, etc, should not be considered equivalent to permanent structures. These structures can be removed from the site by dismantling them. As long as there are no permanent civil structures or protrusions above ground level, the plot should continue to be classified as bare land and remain eligible for VAT exemption.

Q5 A plot is enclosed by a fence with a detachable board, and beneath it runs water, drainage, and sewage pipes. What is the characterization of the land and its tax status?

Fencing is installed to define property boundaries and should not alter the fundamental nature of the land. Likewise, pipes running beneath the plot that do not extend above the ground level should not alter the tax treatment of the supply. The plot should be classified as bare land and VAT exempt.

Q6 What is the date of supply in the case of sale of the land?

Public Clarification VATP018 – Change in the permitted use of a building provides guidance regarding the date of supply in the context of real estate transactions. When it comes to the sale of real estate, the property involved represents an indivisible supply, meaning it occurs as a one-time transaction. While there may be a payment plan for the consideration, the critical point for determining the date of supply is when the right to the property is transferred or possession is given.

To make this concept clearer, the criteria for triggering the date of supply are summarized in the following table:

Triggering criteria (earliest of the following)	Comments
Ownership of the real estate is transferred	This is at the time the property is officially registered with the appropriate land department.
Possession of real estate property	If the recipient takes possession of the property, this date applies.
Receipt of payment	The date when payments are received.
Issuance of tax invoice	This occurs when the tax invoice is issued.

Typically, upon the signing of the SPA, the real estate owner issues a tax invoice for the entire consideration, triggering the date of supply.

Subsequently, any consideration received over a period outlined in the payment plan should not have any independent VAT implications.

Q7 What is the date of supply in the case of a lease of land?

In real estate leasing, the right to use a property is granted for a specified period in exchange for a fee. Ownership of the property remains with the lessor and is not transferred to the lessee. The date of supply in leasing also depends upon the type of lease arrangement and its duration. Typically, the supply in leasing is an ongoing process / continuous event.

To simplify the date of supply in the case of a continuous supply, we have provided a summary in the table below:

Triggering criteria (earliest of the following)	Comments
Issuance of tax invoice	The date when the tax invoice is issued.
Due date of payment	The date of payment that is mentioned on the tax invoice.
Receipt of payment	When the payment is received from the customer.
12 months elapsed from the date the right to use the real estate was provided to the lessee.	In case of continuous supply, the supply trigger can be delayed for a maximum of 12 months.

Q8 What is a Musataha agreement?

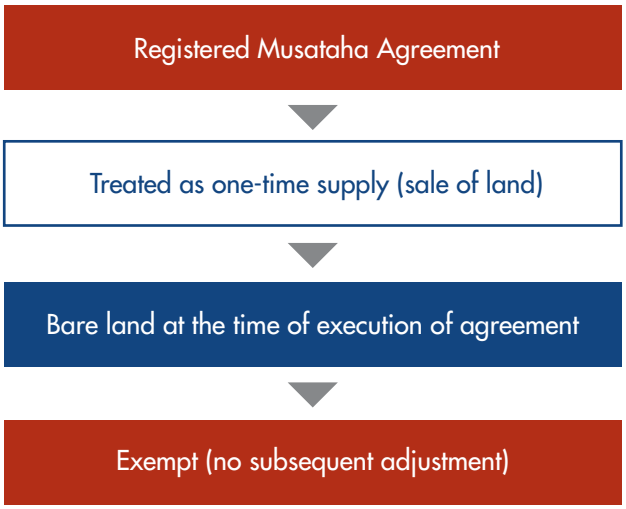
In some cases, a landlord leases a plot of land to a recipient with the right to undertake construction on the land. The ownership of the land remains with the supplier, while the recipient proceeds to construct a building, of which the recipient is the title holder. The recipient can use the property as well as further supply it. This arrangement, known as a Musataha agreement, has a fixed duration, at the end of which the recipient is obligated to return the land in the same condition as it was initially received. This entails either the demolition of any structures, resulting in the land returning to its original, bare state, or an extension in the lease period. Musataha agreements can involve either a one-time payment or a payment plan.

Although there is a right to use the land within the Musataha framework, this is generally regarded as a long-term, one-time arrangement and is distinct from leasing. The tax treatment for a registered Musataha differs from that of an unregistered Musataha.

"Would there be a difference if the developer is selling solely a bare land vis a vis selling bare land and developing villas on the plot?"

Q9 What is the VAT treatment of registered Musataha?

Registered Musataha agreements are regarded as akin to a sale. The VAT treatment is established at the moment the agreement is executed, when the possession is provided or registration with the land department, based on whether the land is in a bare or serviced state.

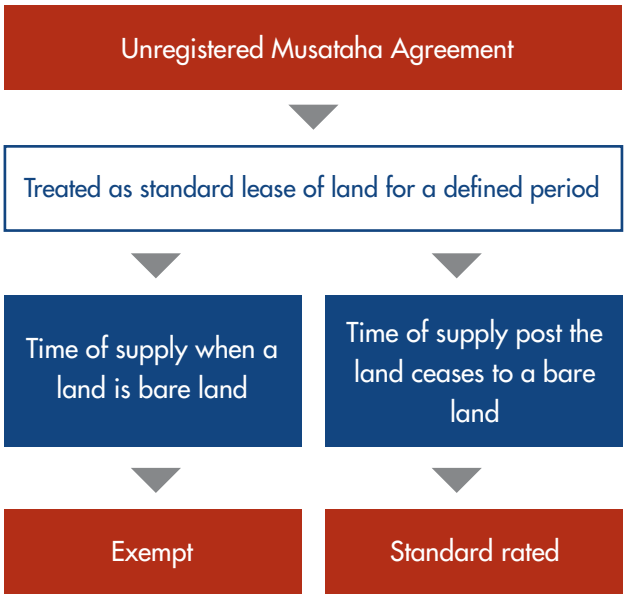


The entire consideration mentioned in the contract is triggered as per Article 25 of the UAE VAT Law, i.e. one time supply, even though the consideration may be in tranches. After that, there should be no need for adjustments at a later stage, even when the tenant begins construction on the land.

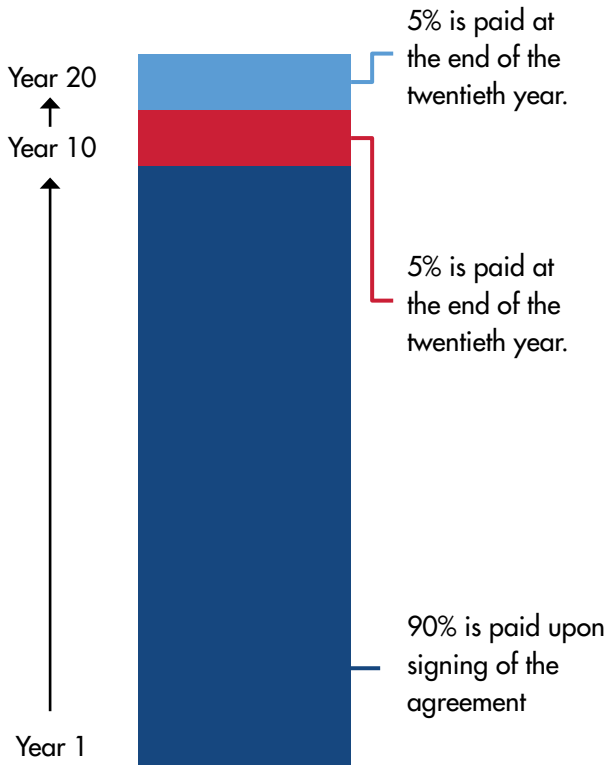
Q10 What is the VAT treatment of unregistered Musataha?

If the Musataha agreement is unregistered, it should be treated as a standard lease for a defined period. The date of supply for each payment must be assessed independently as per Article 26 of the UAE VAT Law i.e. continuous supply, taking into account whether the land is in a bare or serviced condition at the time of each installment.

However, if the Musataha agreement remains unregistered due to circumstances beyond the control of the supplier and recipient, the concerned parties have the option to approach the FTA for a private clarification. Depending on the specific circumstances, the FTA will review each case and provide its guidance on the appropriate VAT treatment.



Q11 A landlord executed a contract for bare land under the Musataha agreement for a 50-year period. The consideration is as follows:



At the end of the fourth year, the tenant started construction on the plot. What would be the date of supply for this scenario?

The VAT treatment will depend on whether or not Musataha is registered, and should be as follows:

For registered Musataha	For unregistered Musataha
• Treated as a one-time supply. • Date of supply occurs at the time of registering the arrangement/ possession. • The construction started at the end of the fourth year. Does not affect the tax treatment as the entire consideration value is VAT exempt, to be disclosed at the time of executing the contract.	• Regarded as a regular lease arrangement. • 90% upon signing of the agreement. As the land is bare, it should be VAT exempt. • The subsequent date of supply shall be upon the receipt of each 5% installment subject to VAT at 5% (land is not bare on the date of supply).

2. PROPERTY OWNERS - RESIDENTIAL AND COMMERCIAL

The FTA and the DLD have announced their collaboration during GITEX Global 2024 which will ensure streamlining tax compliances on sale and purchase of real estate in the UAE. The focus shall be to ensure time-saving and simplifying the procedures in such transactions.

The UAE offers a plethora of real estate opportunities for investors – UAE/ GCC nationals as well as foreign investors (subject to the applicable restrictions), ranging from investment in residential properties like high-end apartments and villas to luxurious commercial properties situated within skyscrapers.

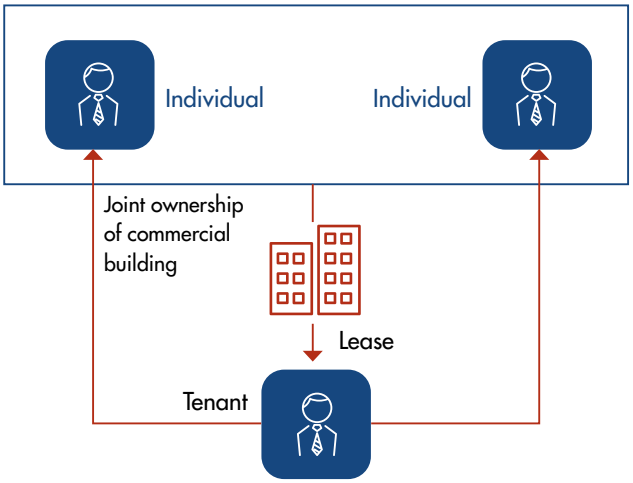
Any kind of supplies, sale, or lease, undertaken by such property owners should attract VAT under the UAE VAT Law.

Q12 What is the VAT treatment associated with a residential property and how does it differ from a commercial property?

The first supply of newly-constructed residential property, which is sold/ leased within three years of its completion, is subject to a 0% VAT rate. If the residential unit is sold after the initial three-year period of completion of the unit, the supply shall become VAT-exempt. All subsequent supplies (after the first supply) or supplies after the initial three-year period would be an exempt supply.

However, the supply of commercial property (irrespective of it being the first supply post- construction or any subsequent supply) is subject to the standard VAT rate.

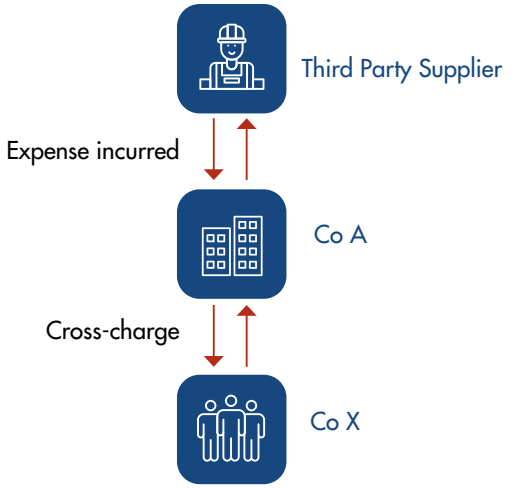
Q13 A commercial property is jointly owned by two individuals. The annual rent for the property is AED 400,000, to be provided to both individuals equally, i.e. the income for each of them is AED 200,000. What is the correct VAT treatment?



Even though the divided rental income received by the two individuals is below the VAT threshold of AED 375,000, it should not be treated as two individuals engaged in separate/independent leasing activities. In the context of leasing, VAT registration should be acquired jointly in both their names to fulfill the VAT obligations. Notably, this applies even if the two individuals do not possess any trade licenses.

"What should be VAT treatment for reimbursement where there is no primary supply?"

A real estate entity owns residential properties that are provided on lease. Apart from basic rent, the entity recovers certain expenses from the tenant. What should be the taxability of such recovered expense?



Taxability hinges on correctly categorizing the recovery as either a reimbursement, disbursement or an independent supply.

If an expense is incurred by the entity and subsequently recovered, it qualifies as a reimbursement. However, if the expense was paid on behalf of a tenant and the supply was used by the tenant, it should be categorized as a disbursement.

A reimbursement is considered part of the primary supply and is subject to the same VAT treatment. On the other hand, a disbursement represents the recovery of the same amount and falls outside the scope of VAT.

Therefore, the expense incurred by the entity will have to be analyzed, whether it qualifies as reimbursement, disbursement, or an independent supply.

Q15 Nisarr & Co plans to launch a new residential project. Prior to the launch, it collected AED 75,000 from potential buyers as an EOI, which would be refunded if the unit was not allocated to the buyer. What should be the tax treatment for the EOI received from the buyer?

Typically, the nature of the EOI collected by developers is as follows:

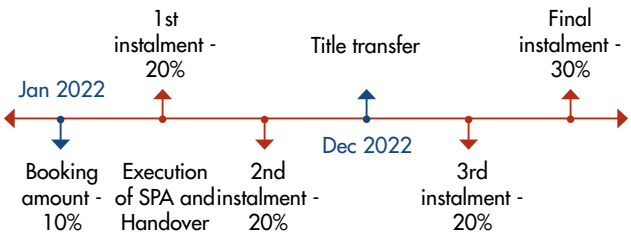
- The EOI does not constitute a sale and does not create any right or interest for the potential buyer.
- The developer has full discretion to accept or reject the EOI from the buyer.
- The EOI is associated with a particular unit, but the same unit can be offered to another buyer before the developer formally accepts the EOI.
- If the application is rejected, the EOI is fully refunded to the buyer. If the application is accepted, the EOI is adjusted against the booking amount to be paid by the buyer upon allotment of the unit.

Thus, the EOI received by the developer should not create/confer any right for the buyer and as such, there is no corresponding supply. The same can be considered as a deposit and should be treated as an advance only when accepted by the developer.

Q16 Al Jamad Company executed a SPA with Mr. Ibrahim for the sale of a new residential property in January 2022. The payment plan is as follows:

- Booking amount – 10%
- 1st instalment – 20% (upon which SPA executed and the handover given to customer)
- 2nd instalment – 20%
- 3rd instalment – 20%
- Final instalment – 30%

The title deed was transferred in December 2022. What should be the tax treatment in the following scenarios?



a) What is the date of supply?

The booking amount should be recognized as an advance payment, and a 0% VAT rate should be applied upon receipt of the booking amount, specifically for 10% of the value. Upon the first installment, when possession is transferred, the date of supply is triggered, and the remaining 90% of the value should be treated as zero-rated for VAT purposes upon possession transfer.

b) Mr. Ibrahim paid the booking amount and does not wish to buy the property. As per the terms, the 10% booking amount is forfeited by Al Jamad Company

The booking amount will be recorded as a zero-rated supply upon receipt. In the event of cancellation where Al Jamad Company withholds the booking amount, this sum may be regarded as compensation for the cancellation. Penalties have been the subject of legal disputes worldwide. The tax treatment will also rely on the existing documents and relevant contractual clauses.

c) Mr. Ibrahim paid the booking amount and the three installments and thereafter assigned the SPA to Mr. Mostafa. Al Jamad Company, Mr. Ibrahim, and Mr. Mostafa executed an assignment/ novation agreement wherein the amount paid will be considered towards the property. Mr. Mostafa will be liable to make the balance payment towards the property.

Al Jamad Company should not be affected, as it had already declared the full consideration as zero-rated upon the first installment and handed over the property to Mr. Ibrahim. Any novation or assignment concerns Mr. Ibrahim and Mr. Mostafa exclusively.

d) Mr. Ibrahim paid for the booking amount and swapped the current property with an alternative new residential property. As per the arrangement, sums paid by Mr. Ibrahim towards the old property will be considered as paid towards the new property. Al Jamad Company and Mr. Ibrahim will execute a new SPA for the new property subsequently.

Al Jamad Company would have declared the booking amount for the old property as a zero-rated supply upon receipt of the booking amount. For the old property, a credit note must be issued for the booking amount. As for the sale of the new property, the amount received should be treated as advances and reported as zero-rated.

Upon the execution of the SPA (when possession is being transferred), the remaining sales consideration should also be reported as a zero-rated supply.

"What should be the VAT treatment for furnished residential apartment supplied with white goods?"

Q17 Sairat Co entered into a commercial lease agreement with a tenant for a period of 2 years. After 1.5 years, the tenant requested to terminate the lease early. In accordance with the terms of the contract, Sairat Co charged the tenant an amount equivalent to 2 months' rent. What is the appropriate tax treatment for this charge?

Typically, if a landlord compensates a tenant for surrendering any interest in, rights over, or license to occupy the property, this is considered a supply from the tenant to the landlord. In this case, the tenant is seen as making a supply by agreeing to terminate the lease early, which is subject to VAT at 5%. Conversely, if the landlord receives payment from the tenant for early termination of the lease, this amount may be considered compensation for the cancellation or breach of the contract.

However, penalties related to such situations have been the subject of legal disputes globally, and the tax treatment will depend on the applicable regulations and existing documentation.

Q18 Al Zayeed Company leases commercial properties. The lease expires and is not renewed as the rental amount is being negotiated. What should be the tax treatment in the following scenarios?

a) The tenant continues to occupy the property after the expiry of the old lease, which is December 2022. The contract is renewed in October 2024.

One could argue that lease contracts should be regarded as a continuous supply. However, from January 2024 to October 2024, there is no valid contract specifying terms such as the lease period, invoicing conditions, consideration, etc.

Consequently, Al Zayeed Company would neither have invoiced for rent nor received any payments during this period. In the absence of periodic payments or invoicing, the transaction should be classified as a one-time supply. In such a scenario, the date of supply should be triggered as per Article 25 of the UAE VAT Law i.e. when the contract is renewed for a fixed consideration.

This exception would not apply if any interim payment were received, or interim invoicing was issued.

b) The tenant continues occupying the property after the expiry of the old lease in December 2022. The contract is not renewed and the tenant vacates the property in October 2024. For the period from December 2022 to October 2024, the tenant pays as per the old contract upon vacating.

If the payment is made at the end of October 2024, the implications remain consistent with the above. However, if the tenant continues to make rental payments in accordance with the old contract, the supply should be triggered upon the receipt of each rental installment or issuance of an invoice, whichever is earlier.

> *"What will be the VAT treatment on settlement of rental disputes?"*

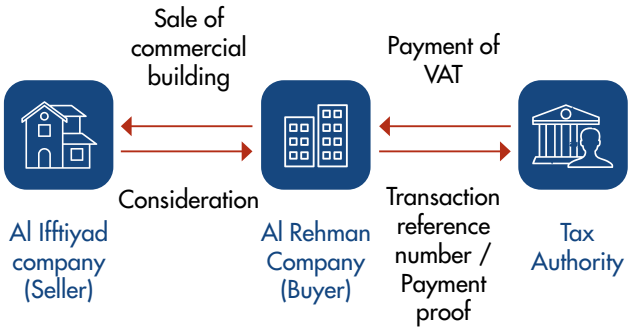
c) The occupant persists in staying on the premises beyond the expiry of the previous lease, which occurred in December 2022. Despite there being no renewal of the contract, Al Zayeed Company asks the tenant to leave. However, the tenant refuses, leading to legal action for eviction. In October 2024, the court ruled in favor of eviction, instructing the tenant to vacate the property and make a payment.

The crux of the current matter does not pertain to the rental consideration itself. From January to October 2024, Company A had no intention of offering leasing services. The tenant was in illegal occupation of the property, without the owner's consent. In the absence of consent, there should be no supply, and thus the amount determined by the court may be viewed as punitive in nature. However, this may be dependent upon various factors and documentation. Interestingly, in a few other jurisdictions, the courts have considered this amount in lieu of supply.

Q19 Al Qimmaah Company leases commercial properties. Upon expiry of the lease, the entity is obligated to make payment for Capex to the tenant. This payment is adjusted against the last rental tranche which was required to be made by the tenant. What should be the tax treatment in the current transaction?

There are two distinct supplies involved. The first supply pertains to the rental payments made by the tenant to Al Qimmaah Company, while the other aspect relates to the capex improvement to be paid by Al Qimmaah Company to the tenant. Both transactions are subject to the standard VAT rate and require relevant compliance.

Q20 Al Ifftiyad Company intends to sell its commercial property to Al Rehman Company. The latter is refusing to make the payment of VAT to the former. Is this approach by Al Rehman correct?



Similar to any other transaction, in the sale of commercial property, the seller is responsible for calculating and applying VAT to the buyer. The invoice should contain the property value and the VAT amount. Under normal circumstances, the buyer is responsible for paying VAT to the seller who consequently remits it to the tax authorities. However, for commercial properties, the buyer is only required to pay for the property's value to the seller and the VAT should be directly paid to the FTA.

After making this payment by the buyer, a Payment Transaction Number is generated, or proof of payment in case of bank payment. This document is required at the time of transferring the property title at the Land Department. Since the seller issued a Tax Invoice that includes VAT, the output supply will be recorded in the VAT return. To prevent double VAT payment, the seller should adjust the VAT amount in the respective column and maintain a copy of the VAT payment made by the buyer to the FTA.

However, it is noted that in many instances the DLD is registering the property even when the VAT is not paid by the buyer prior to the registration. In all such cases, the liability to pay VAT may remain with the seller.

The above mechanism is only applicable in case sale of commercial property is done by seller who is not the developer of the commercial property. In case of sale of commercial property by developers, normal VAT rules shall be applicable.

"VAT implications on one consideration for sale of residential and commercial units?"

Q21 Al Akbar Company undertakes some structural changes in its building and makes a payment to the tenant as a gesture of goodwill for disrupted business, towards reduced sales or for any damage that may be incurred because of structural changes. What is the tax treatment for this payment?

If payment is provided to the tenant as compensation for potential losses due to structural changes, such transactions should be regarded as outside the scope of VAT. In some circumstances, it could result in a taxable supply as well. As mentioned earlier, compensation transactions are required to be analyzed on a case-to-case basis.

Q22 Al Rasook Company, operating in commercial property rentals, has received some unidentified funds in its bank account. VAT returns are filed on a monthly basis. What guidance should be provided in this situation?

Company A has the following options:

Option 1

If it is confident that all the bank receipts are associated with amounts corresponding to the tax invoices, it can proceed to account for filing the return based on the invoices generated. However, a reconciliation is required for any unidentified amounts.

Option 2

In many large conglomerates, there is a lack of confidence in receipts, often because tenants may deposit rental amounts in advance. Notice of these transactions may occur later during reconciliation or discussions with the tenant. In such situations, as soon as the amount is received in the bank account, the date of supply is triggered, even when the corresponding tax invoice has not been issued.

Failure to discharge VAT in the same month results in a default in VAT payment, attracting penalties. In this case, it is advisable to consolidate the unidentified amount and treat it as a separate taxable supply. A tax invoice should be issued for this amount, and the corresponding VAT should be paid. After reconciliation, a tax credit note can be issued to ensure that VAT payments are not duplicated.

Although Al Rasook Company will temporarily bear additional VAT funding, this approach will prevent VAT lapses and associated penalties.

For example:

In January 2024, there is an unidentifiable revenue amounting to AED 100,000, and reconciliation is not feasible until the VAT return is filed. The entity has the option to issue a tax invoice for AED 100,000. In March 2024, it is apprised that AED 60,000 of this amount is related to invoices that were already issued to a tenant in November 2022.

Since the VAT liability for November 2022 had already been settled when filing the VAT return, a tax credit note can be issued in March 2024 for AED 60,000 against the AED 100,000 tax invoice.

The remaining AED 40,000 corresponds to rent for which an invoice is to be issued in April 2024, and the tenant has already paid in advance. An invoice should be generated in April 2024, and in the same month, a tax credit note can be issued to offset the invoice issued in January 2024. This approach ensures the following:

- Prevention of duplicate VAT payments.
- Timely VAT payment when the advance was received.
- Correct tax invoices are issued to the customers

"What should be the VAT treatment of unidentified receipts accounted as miscellaneous income?"

Q23 What kinds of service distinguish between residential and serviced accommodation?

Residential accommodations are subject to 0%/ exempt (first supply within three years / otherwise), whereas serviced accommodation is subject to a standard rate of VAT. In many cases, along with residential accommodation, the landlord provides additional services, resulting in the accommodation qualifying as a serviced accommodation.

The services may include, but are not limited to, the following:

Sr. No	Residential Accommodation	Serviced Accommodation
1.	Cleaning of communal areas	Cleaning inside the rooms/ accommodation
2.	Maintenance services necessary for the overall property upkeep	Laundry services, including regular bed linen changes
3.	Pest control in the communal areas	Pest control inside the room/ accommodation
4.	Garbage collection	Catering
5.	Security	Maintenance services beyond those required for general property upkeep
6.	Utilities such as electricity, water, etc.	Telephone and Internet access
7.	Access to facilities within the building for residents' use, e.g., gym, pool, prayer rooms, etc.	

The definition of 'Residential Buildings' has been updated w.e.f. November 15, 2024. Before the amendment, it was necessary to assess the additional services provided alongside accommodation to determine whether a property should be classified as a serviced apartment and therefore not a residential building. The amendment removes the reference to additional services and it remains to be seen whether the exclusion will apply solely based on whether a building is classified as a hotel or serviced apartment by the relevant land department. It will be essential for businesses to assess how this change impacts their supplies.

Q24 The employer provides accommodation to its employee in lieu of charging housing allowance. What should be the VAT implications?

It is the responsibility of each supplier to identify the tax treatment of its supply. Where the employer charges the employee a form of consideration in exchange for the residential accommodation (accommodation in lieu of allowance), it should be treated as a supply. The provision of residential accommodation is VAT exempt. It is important to determine if the employer is providing accommodation in lieu of any consideration.

Q25 What can be different kinds of considerations received by the employer in lieu of providing accommodation?

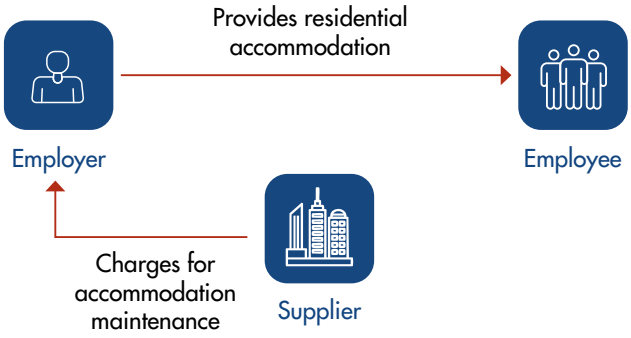
The agreements with employees need to be examined meticulously to determine the presence of any form of consideration. Consideration is not solely contingent on when it is received; it also encompasses amounts deducted from the employee's payable wages. The FTA provides several examples, including:

- A direct fee levied on the employee for accommodation.
- A deduction from the employee's salary regarding the accommodation.
- Provision of accommodation in lieu of the payment of a housing allowance to the employee.

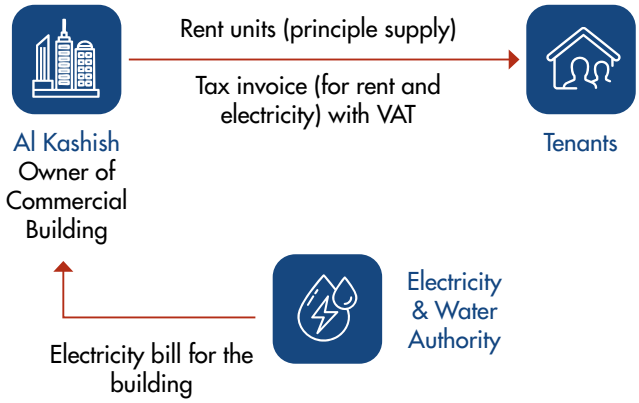
This has been explained in the VAT Guide on Real Estate by the FTA as well.

Q26 An employer provides residential accommodation to its employees without any charge. Can expenses for communal area maintenance (such as cleaning, maintenance, etc.) incurred in relation to accommodation be recovered by the employer.

If the employees' salaries are below AED 1,500, and the number of employees exceeds 50, the employer is legally required to furnish residential accommodation to its employees. As this is a legal requirement of the employer, the related input VAT should be eligible for recovery as a part of business overhead expenses.



Q27 Al Kashish Company (owner of a commercial building) has rented units of its building. The electricity bill continues to be in the name of the owner. As per the agreement, Al Kashish Company will cross-charge the amount in addition to the rent. What would be the tax implications on cross-charges?



When an expense is directly associated with a principal supply, the recharge of such an expense should align with the VAT treatment of the principal supply. Consequently, the cross-charge for the entire electricity amount, which includes sewerage charges, 'typically should be subject to the standard VAT rate.

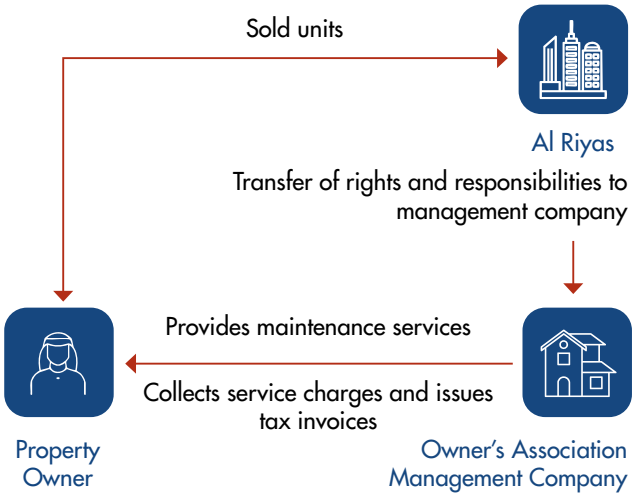
3. MANAGEMENT COMPANY

Once a building is constructed and ready to use, it is supplied to the end customer (either by way of sale or lease). In some cases, a single customer purchases/ leases the building, but it is more common for multiple owners to own parts/ parcels of a property jointly. In such cases of joint ownership, MC are established to manage the jointly owned property.

From a legal and commercial perspective, MCs are distinct legal entities. It is responsible for management, monitoring and maintenance of common areas in a joint property. They also play a role in enforcement of statutory regulations, community or building rules, facility management and security.

From a VAT perspective, it is essential to categorize the transactions between the MCs, members/ owners, and suppliers to ensure VAT is duly discharged as applicable.

Q28 Al Riyas Company owns 4 four buildings. The units are sold to third parties from whom annual service charges are collected for the maintenance of communal areas. Is this the correct methodology?



In accordance with a public clarification VATP022 on Dubai Owner's Association and Management entities issued by the FTA, all the rights and responsibilities of the DOA should be transferred to the MC. Furthermore, in compliance with Law No. 6 issued by RERA on 04 September 2019, a MC must be established, which will have the authority to collect service charges and issue tax invoices to owners of the units.

Subsequently, the MC will be tasked with delivering maintenance services. Thus, Al Riyas Company will have to establish an approved MC to perform the maintenance functions.

Q29 How can the MC issue tax invoices to the tenants for service charges?

According to UAE VAT Law, a tax invoice must be issued for any taxable supply. Therefore, depending on the value of the supply and the status of the recipient (business or individual), either a standard tax invoice or a simplified tax invoice should be generated. It is important to note that RERA law mandates obtaining approval before invoicing the owners. Additionally, the invoice should be issued through the Mollak system.

Q30 A Sara Company, a real estate entity incorporated a management entity Al Rikhta Company in September 2020. As per the Public Clarification VATP022 on Dubai Owner's Association and Management entities, all rights and obligations of DOA should be transferred to the MC effective from 3 November 2019. What should be the implications from a VAT perspective?

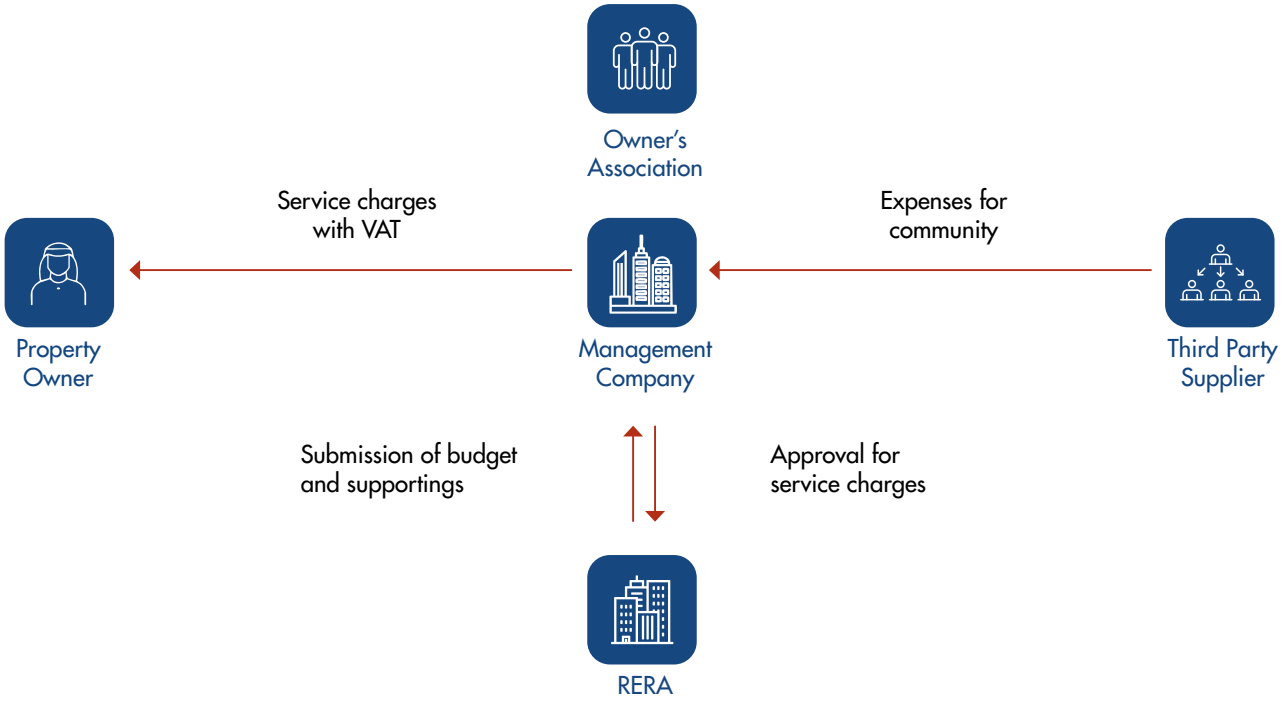
RERA grants approval to a particular entity, which is tasked with managing activities, collecting service charges, and subsequently handling VAT obligations. Given the above, one perspective could be that it is the responsibility of the MC to provide services and discharge VAT liability from 3 November 2019.

However, it's challenging to assign this responsibility to an entity for a period when it did not yet exist (i.e., November 2019 to September 2020). Therefore, it's crucial to check the documentation and opt for the correct mechanism that does not warrant any tax exposure.

> *"How would the transfer of owners association management operations to a management company be recorded?"*

Q31 In the above case, if Al Sara Company obtains provisional approval from RERA for a specific period prior to the formation of Al Rikhta Company, who shall be responsible for reporting the taxable supplies?

If Al Sara Company secures provisional RERA approval for the designated period, the management activities conducted by Al Sara Company should be considered a taxable supply subject to 5% VAT.



Q32 Imagine a scenario where the MC is not formulated, and the ownership of a few unsold units remains with the real estate entity. What will be the VAT implications for service charges on the unsold units?

The actions taken by the real estate entity for its unsold units (which are owned by itself) should not be considered a supply, as an entity cannot make a supply to itself. Consequently, real estate should be regarded as providing a taxable supply only for the services rendered to third-party owners. The self- supply should be classified as outside the scope of VAT.

However, a contrary argument may be adopted that had the MC provided services to all the unit holders, it would have issued a tax invoice for the unsold units to the real estate owner as well, which in the current scenario are not being taxed.

Therefore, it will be pertinent to explore if there is any tax leakage in this mechanism, and post-analysis the correct methodology should be adopted.

Please note this scenario is against the public clarification and a MC should be incorporated to provide the maintenance services.

> *"Is VAT recoverable on expenses relating to events organized in community?*

Q33 While transitioning from the real estate entity (i.e. the builder) to the MC for maintenance services, what aspects should be analyzed?

When making the transition, it is crucial to ensure the following:

- VAT should be discharged by the entity that is authorized and approved to provide maintenance services by RERA.
- Expenses should be correctly booked and approved in the respective entity that has the contractual obligation. Without a corresponding output, the input VAT on expenses may not be eligible for deduction.
- All contracts with suppliers and customers should be officially transferred to the approved entity as on the transitioning date.
- After the transition, all approvals should be performed by the MC, which should issue tax invoices to the owners and recover input VAT on expenses incurred to provide services.
- The invoicing should be through the Mollak system.

Q34 The MC has applied for service charge rates approval for the year 2024 from RERA, which is still pending. What should be the tax implications?

The MC should not collect service charges from owners without obtaining RERA approval. Consequently, the entity would not have issued any tax invoices, nor would it have received any interim payments.

In light of this, it could be argued that the supply should be treated as a one-time supply rather than a continuous one. Therefore, there may not be an obligation on the entity to issue an invoice at the end of the 12-month period, i.e., in December 2024, and consequently, the tax liability may be triggered after RERA approval and upon issuing the tax invoice.

Additionally, in the absence of approval, the entity may not be able to generate invoices through the Mollak system. This interpretation could be considered after seeking clarification from the FTA.

In the event the payment is received from the customer by itself, the above proposition will change.

4. PROPERTY MANAGER

Real estate agents must navigate specific tax considerations – especially the aspect of disclosed and undisclosed agency.

Typically, real estate agency services are subject to VAT at a standard rate of 5%. However, the VAT implications may differ where the agent operates as disclosed agents vs. undisclosed agents.

For both types of agents, proper VAT registration, accurate invoicing, and adherence to reporting requirements are essential for compliance.

Understanding these VAT implications helps real estate agents manage their tax responsibilities effectively and avoid potential issues.

Q35 Who is a Property Manager?

A property manager serves as an intermediary, facilitating the leasing of properties by connecting landlords with tenants. They receive a commission in exchange for their services, such as agreement execution, maintenance of the property, collection of rentals, etc. A property manager may function either as a disclosed or an undisclosed agent.

Q36 Who is a disclosed agent and the associated VAT treatment?

A disclosed agent refers to a scenario where an agent, acting in the name and on behalf of a principal, facilitates the transaction. In this context, the supplier (property owner) directly provides the service (property leasing) to the customer (tenant), and all parties involved are mutually aware of each other's roles.

This transparency is documented in relevant agreements such as the rental contract or Ejari. The agent, for their role in facilitating various aspects such as tenant acquisition and rent collection, receives compensation in the form of a commission or fixed fee, which may be a percentage of the rental amount.

Supplier	Agent
The property owner should generate an invoice for the tenant, which includes the applicable VAT rate (0%, exempt, or standard rate), depending on the type of property. The agent has the option to issue the tax invoice to the customer on behalf of the owner, which will have to be disclosed in the owner's VAT return.	The agent may levy a commission for its services, which is subject to the standard VAT rate. It may be charged to either the owner, the tenant, or both, depending upon the contractual arrangement.

For e.g., Al Riyad Company engages the services of Al Masaba Company as a disclosed agent to lease its commercial property for AED 100,000. Al Masaba identifies and finalizes the arrangement with Mr. Sukoon. The contract designates Al Riyad Company as the property owner and supplier of the premises, while Al Masaba Company is responsible for the facilitation for which it charges AED 5,000.

In this context, Al Riyad Company will issue a tax invoice to the tenant, Mr. Sukoon, with 5% VAT. Simultaneously, Al Masaba Company will issue a tax invoice to Al Riyad Company for AED 5,000, also with 5% VAT. The Corresponding VAT compliances will have to be undertaken by each entity.

Q37 What is an undisclosed agency and the associated VAT treatment?

When an agent supplies goods or services in its own name, it falls under the category of an undisclosed agent. In this setup, the property owner leases the property to the agent, who then sub-leases it to the customer typically with a markup. From the customer's perspective, the agent is seen as the supplier, and thus the customer may not be aware of the actual property owner. This arrangement involves two separate supplies and is commonly referred to as a Principal to Principal arrangement.

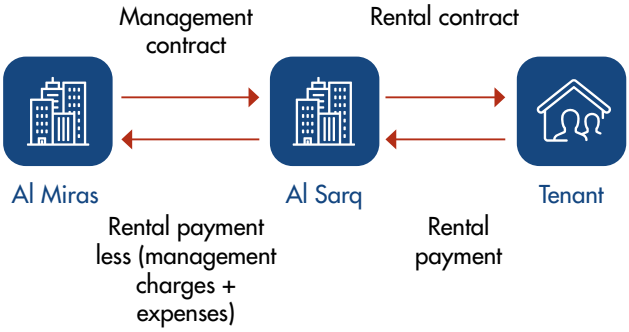
Supplier	Agent
The property owner generates an invoice for the agent, which includes the relevant VAT rate (0%, exempt, or standard rate) based on the property being residential or commercial.	The agent will consequently issue a tax invoice to the customer with the relevant VAT rate (exempt or standard rate).

For e.g., Al Riyad Company designates Al Masaba Company as an undisclosed agent to facilitate the leasing of its commercial property for AED 100,000. Al Masaba Company identifies Mr. Sukoon and completes the necessary documentation. This arrangement entails the creation of two distinct contracts: one outlining the lease of the property from Al Riyad Company to Al Masaba Company and the other formalizing the lease of the same property from Al Masaba Company to Mr. Sukoon.

In compliance with VAT regulations, both Al Riyad Company and Al Masaba Company must issue tax invoices subject to the standard VAT rate and report the transaction in their respective VAT returns.

"What are the owners VAT obligations in rental pool arrangements?"

Q38 Al Miras owns a real estate property that is managed by an agent, Al Sarq, who has subsequently leased the property to tenants. Al Sarq has executed a contract with the tenant under its own name. The rental charged by Al Sarq to the tenant is the same that is charged by Al Miras to Al Sarq. In addition, Al Sarq incurs expenses for maintaining the property. All the suppliers issue the invoices to Al Sarq for maintenance of the property. Al Sarq collects the rent amount from tenants and remits it to Al Miras after deducting its management charges and expenses incurred for maintaining the property. What should be the VAT treatment.



Al Miras is the lawful property owner. While Al Sarq has entered into contracts with tenants in its own name, there initially has to be a supply from Al Miras to Al Sarq, thereby qualifying this whole arrangement as Al Sarq being an undisclosed agent.

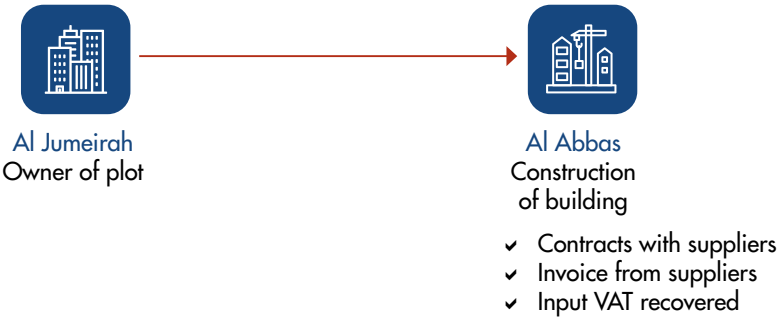
For Al Sarq:

Income	VAT Treatment
Rent collected from tenants	Supply (exempt/ 5% depending on the type of property)
Recovery of management charges from Al Miras	Supply (subject to the standard VAT rate)
Recovery of expenses from Al Miras which are paid to suppliers for property maintenance	Supply (subject to the standard VAT rate)
Input VAT paid to suppliers for property maintenance	Input VAT recoverable as these expenses are being charged to Al Miras

For Al Miras:

Income	Tax Treatment
Rent collected from Al Sarq	Supply (subject to 0%, exempt, or 5% VAT, depending on the property type)
Input VAT on management charges from Al Sarq	Recoverable in the case of 0% or 5% VAT (only for the first year). If the rent is exempt, input VAT recovery is not applicable
Input VAT on expenses charged by Al Sarq	

Q39 Al Abbas Company enters into an agreement with Al Jumeirah Company for the construction of a building on a plot that is owned by the latter. All supplier contracts are with Al Abbas Company and thus the input VAT is recovered on construction cost by Al Abbas Company. Upon completion, the building will be handed over to Al Jumeirah Company. Is Al Abbas Company selling the building as a first sale with VAT subject to 0%?



Without a registered Musataha agreement, it cannot be confirmed that the plot is allocated to Al Abbas Company for constructing a building, ownership of which would rest with Al Abbas Company. Given that the plot is under the ownership of Al Jumeirah, ownership of any structure/ building shall remain with Al Jumeirah. Consequently, Al Abbas Company shall be construed to be providing construction services to Al Jumeirah Company. Depending on the specific terms of the contract, invoicing, payments, and other factors, the date of supply should be determined for construction services rendered by Al Abbas Company and the supply should be subject to the standard VAT rate.

Q40 Whether VAT treatment for subleasing fees should be determined based on the nature of the property i.e., commercial, or residential.

Subleasing fees may be regarded as independent services and not necessarily be tied to the property's nature.

5. CONSTRUCTION

The construction sector plays a vital role in driving economic growth and significantly contributes to job creation. It begins with the planning and design phases, followed by a range of activities and stages until the final asset is completed. As a fundamental component of the broader economy, construction companies are responsible for the development of buildings, infrastructure, power plants, and industrial facilities, as well as related activities such as renovations and repairs.

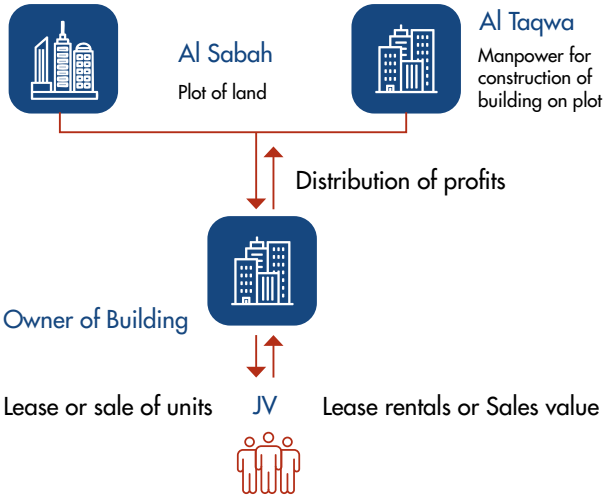
Typically, the customers for construction companies are developers and, in some cases, the landowners/ end users themselves.

Understanding the VAT implications allows construction companies to navigate the tax landscape effectively, optimize their financial management, and ensure compliance with UAE VAT regulations.

Proper handling of VAT issues is essential for maintaining operational efficiency and avoiding potential tax liabilities.

"What would be VAT implications on JV between land owner and construction company involved in jointly developing a project?"

Q41 Al Sabah and Al Taqwa collaborate to make a JV. As per the agreement, Al Sabah is required to provide a plot of land, and Al Taqwa is required to provide manpower and construction costs to make the building. The ownership of the units shall be with the JV, and upon completion, the units shall be leased/ sold by the JV. The profits will thereafter be distributed to the two entities. What should be the VAT treatment?



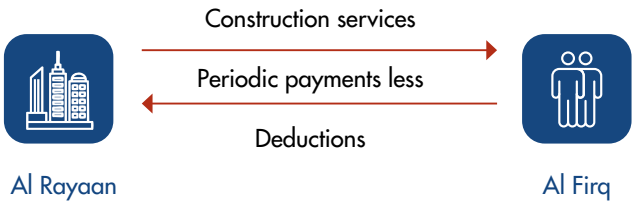
First and foremost, it's essential to acknowledge that the JV, Al Sabah, and Al Taqwa are distinct and separate entities. Therefore, the transaction should be assessed independently. Ideally, Al Sabah and Al Taqwa should have jointly invested funds in the JV in exchange for JV shares. These funds would be earmarked for acquiring a plot and securing the necessary workforce.

In this context, Al Sabah should be regarded as the supplier of the plot to the JV, treated as a VAT exempt supply (assuming it's an undeveloped plot). Proper documentation is required to establish the ownership of land is transferred from Al Sabah to the JV. Al Taqwa, on the other hand, is providing manpower and construction services, which are subject to the standard VAT rate. Input VAT recovery should be based on the tax invoice.

Upon project completion, the JV will be involved in the first supply of residential accommodation, eligible for a 0% VAT rate, and the input VAT can be recovered for the building's construction (including materials and manpower).

If profits are distributed as dividends, they fall outside the scope of VAT for both Al Sabah and Al Taqwa.

Q42 Al Rayaan has appointed Al Firq to make a building for which periodic invoices are issued by Al Firq. While making the payment, Al Rayaan deducted a certain amount on account of its engineer's overtime, cross-charges, etc. The remaining portion was remitted to Al Firq. What shall be the VAT implications? Will it make any difference if the deduction pertains to an amount paid by Al Rayaan on behalf of Al Firq?



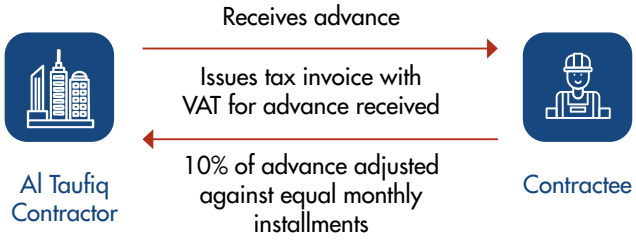
Netting off of payments is not an issue as long as the transactions are independently analyzed for respective tax treatment. In this particular situation, there exist two distinct supplies. Al Firq is providing construction services to Al Rayaan and is appropriately issuing its tax invoice for these services.

Any deductions, such as engineer's overtime or cross-charges incurred, should be considered as separate supplies by Al Rayaan to Al Firq, subject to the standard rate of VAT. All relevant compliance procedures, such as the issuance of a tax invoice and disclosure in Al Rayaan's output supply for VAT returns, must be observed.

In such arrangements, it is essential to analyze the nature of each deduction independently. If Al Rayaan has merely paid to a supplier of Al Firq (on its behalf), which is subsequently deducted from Al Firq's invoice, it may qualify as a disbursement. Careful examination of all relevant documents is necessary to determine the precise nature of the supply.

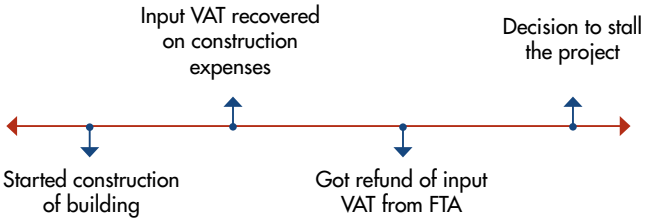
> *"VAT treatment of payable adjusted against receivable tax invoices?"*

Q43 Al Taufiq is awarded AED 1 million contract for construction services. As per the contract, an advance of AED 100,000 is to be invoiced in January 2024. 10% of the advance is to be adjusted against equal monthly invoicing, which is upon milestone. What should be the VAT treatment?



As an advance payment is received in January 2024, Al Taufiq is obligated to issue a tax invoice for AED 100,000 with VAT and settle the corresponding tax liability. At each milestone, Al Taufiq is entitled to issue an invoice, in accordance with the milestone achievement. Following the deduction of 10% from the advance in each invoice, i.e., AED 10,000, the remaining AED 90,000 should be subject to VAT in each invoice. Failure to account for the advance amount and incorporate it into the progressive invoicing process can lead to incorrect VAT settlement.

Q44 Al Sakina LLC started constructing a commercial building. During the construction, the management decided to stall the project, which could be due to funds flow/ change in strategy, etc. Al Sakina LLC has recovered the input VAT on construction expenses and also received a refund. What should be the VAT implications?



The core issue pertains to whether there is a requirement to reverse any previously recovered input VAT, as the project is currently stalled. Thus, no taxable supplies are expected in the near future.

Under UAE VAT Law, input VAT paid for the acquisition of goods and/or services is recoverable if these purchases are intended for the purpose of generating taxable supplies. Therefore, input VAT should be recoverable as long as there is a clear intent to utilize the expense for a taxable supply, i.e., an intention should be apparent at the time of incurring the expense.

In the case of construction, Al Sakina LLC initially had a well-defined intention to construct a commercial building that would be leased or sold, thereby constituting a taxable supply. Consequently, Al Sakina LLC had a clear intent to use the expenses to facilitate a taxable supply, and hence input VAT was recoverable. However, any subsequent change in intention may warrant an appropriate change in VAT implications.

6. MASTER DEVELOPERS

UAE is a booming market from a development perspective. Major players have been working on large scale projects for residential projects/ commercial projects as well as projects of a mixed nature.

From a VAT perspective, the developers are crucial players as they undertake a wide range of activities from purchase/ lease of raw land, development of properties, sale or lease of developed land or land parcels to others and renovation and re-lease of existing buildings. They are also typically the party that finances real estate deals and obtain the requisite approvals from the regulators.

Developers work with a varying range entity along the development process, and in most cases, once the land is developed, the same is supplied to end consumers.

This section will help in understanding the common VAT issues faced by the Master Developers.

Q45 Who is a Master Developer?

A Master Developer is a construction company that specializes in the development of extensive real estate projects, encompassing a combination of residential areas, office complexes, shopping centers, communal spaces, and more.

"Is there any VAT implication if the legal owner and beneficial owner of real estate are different entities?"

Q46 What is the methodology of development by a master developer?

Typically, a master developer owns a sizable plot on which construction is carried out in a phased manner. There is an overall approved plan (from the Land Department) for the entire project. For construction, a total GFA is allocated to the entire project, which is then distributed among individual constructions (residential or commercial buildings) within each phase.

The overall infrastructure cost, such as the required roads, sewage capacity, electricity support, common open areas, parks, etc., for a particular phase is directly proportional to the GFA of the individual phase. For example, the GFA of a community not only determines the number of apartments but also influences the requirements for parks, transportation infrastructure like roads, and so on. There are many important and crucial aspects involved in the development of an entire project.

Q47 How is the project sold?

In accordance with the development plan, individual units like apartments, villas, and office blocks are offered for sale. These units may be sold through various methods, including payment plans, full upfront payments, etc. The determination of the date of supply for each unit should be assessed on a case- by-case basis, as discussed in previous sections.

Q48 What are the kinds of revenue streams of a Master Developer?

Type of Revenue	Taxability
Newly constructed residential units sold/ leased (apartments/villas, etc.)	0%
Residential unit sold/ leased after three years of completion	Exempt
Commercial units sold/ leased	5%
Bare land sold/ leased (undeveloped plot)	Exempt
Serviced land sold/leased	5%

"Implications on input VAT for residential projects not sold within 3 years from the date of completion?"

Q49 Sadqah Co built a new property with the intention of offering it for commercial lease and the property was registered with the DLD as a commercial property. The construction was completed on January 31, 2021. On April 30, 2022, Sadqah Co chose to convert the property into a residential building and lease the units. It signed a residential lease agreement with a tenant on January 31, 2025. What is the tax treatment for this supply?

The first supply of a converted residential building should be zero-rated subject to the following:

- the supply must take place within 3 years of the completion of the conversion
- the original building which was converted, or any part of it, must not have been used as a residential building or comprise of a residential building within 5 years prior to the conversion work commencing

"What is the relevant date for computing 3-year window in case of first supply of residential units?"

Q50 What is the eligibility for recovery of input VAT on the projects developed by a Master Developer?

Given the diverse range of supplies made by a Master Developer, it is essential for the business to categorize and report the nature of supplies for each unit separately. The general rule for input VAT applies to a Master Developer, as outlined below:

Expenses directly associated with making taxable supplies are eligible for VAT recovery.

Expenses directly linked to making exempt supplies are not eligible for VAT recovery.

Common expenses incurred for both taxable and exempt supplies should be allocated or apportioned between these types of supplies.

Q51 How are the common expenses to be apportioned taxable and exempt supplies?

Businesses are obligated to implement the standard input tax apportionment method for each tax period, which involves apportioning common expenses between taxable and exempt supplies using the following formula:

$$\frac{\text{Recoverable input tax}}{\text{Total Input Tax (Recoverable input tax + non-recoverable input tax in relation to exempt supplies/ non-business use)}} \times 100$$

The percentage derived from this calculation should be rounded to the nearest whole number and applied to the residual input VAT.

Based on the recent Decision, w.e.f. November 15, 2024, the computation of the recovery ratio for input tax apportionment has been amended as under –

- While apportioning the input VAT in relation to exempt supplies, input VAT in relation to blocked expenses to be included
- The percentage of recoverable tax to be computed as to the sum of input tax for the tax period

The above may have significant impact on all businesses having exempt supply as there may be substantial reduction in the recovery ratio.

In addition, as a relief measure, taxpayers now have the option to apply for a specific recovery percentage derived from the recovery percentage of the preceding tax year, to avoid lengthy calculations.

Furthermore, businesses must conduct an annual wash-up calculation for the entire tax year based on the same principles and make necessary adjustments in the first return of the subsequent tax year.

Apart from the general rules for determining the tax year, the FTA has added certain scenarios. In case of deregistration, joining a tax group, or leaving a tax group, the tax year would also change which could result in multiple washup calculations during the year for large tax groups.

Additionally, businesses are required to make one more adjustment in the first tax period of the subsequent tax year. This is to adjust the input tax based on actual usage, which is to be determined as per special method, provided the difference of input tax for the year (as per standard method) and input tax as per the special method is more than AED 250,000. It has been clarified by the FTA in the Decision that where the tax year is shorter than 12 months, a proportionate adjustment to the AED 250,000 limit must be applied when computing the annual wash-up calculation.

The changes mentioned in the Decision are quite impactful and we anticipate clarity from the FTA on the above amendments in relation to the input tax apportionment. It is recommended that the above changes are not implemented prior to getting any clarity.

Q52 Which special method is applicable for a Master Developer?

If a Master Developer operates exclusively in the real estate sector, involved in the sale and rental of commercial and residential properties, they should apply the floorspace method, as follows:

$$\frac{\text{Floorspace (in sqm) used for taxable activity}}{\text{Total floorspace (in sqm)}} \times 100$$

However, if the Master Developer engages in different businesses that are distinct and independent from each other, the sectoral method can be utilized. This involves two steps:

Step 1:

Allocate common expenses among various businesses based on criteria such as headcount or the output method.

Step 2:

Employ a special method specific to each business to apportion the shared expenses allocated to that business between taxable and exempt supplies. In the case of the real estate business, the floorspace method should be used.

> *"How to recover VAT on zone wise master development?"*

Q53 What is the issue with respect to the floorspace method for Master Developers?

Master Developers may encounter several challenges when it comes to floorspace method calculations. In many cases, the GFA might not be readily available for already completed projects. Even if GFA information were to be obtained, the associated costs can be quite significant. Moreover, the development of a project typically spans multiple years, and as it progresses, the development strategy may evolve, potentially affecting the GFA for specific phases.

For instance, the allocation of infrastructure costs that were initially assigned to exempt sales (e.g., the sale of undeveloped land) could change to become taxable supplies if residential villas are constructed on the bare land and subsequently sold. The situation can become more intricate if the sale of residential villas extends beyond three years.

Q54 In the case of the floorspace method, how should the common area for the project be considered?

A master development project, a portion of the area may be designated for communal spaces, including features like a beach, park, prayer room, and more. According to the Input Tax Apportionment Guide VATGIT1 issued by the FTA, communal areas like lobbies and lifts should be excluded when calculating the floor space available for commercial or residential use.

While the guide appears to specifically pertain to communal areas within a building and not within a master development project, it is reasonable to draw a parallel and consider that communal areas within a project should be subtracted from the total floor space of the entire project.

Q55 What is the process to adopt a special method of input tax apportionment?

Prior to implementing the special method, a taxable person must submit an application to the FTA in the specified format, including all necessary supporting documentation. If the application is approved, it remains effective for a duration of four years in the case of non-sectoral methods, and two years when applying sectoral methods.

Q56 What kind of common expenses are incurred by a Master Developer?

a. Common expenses borne by a Master Developer usually encompass infrastructure expenses tied to road construction, sub-stations, design and consultancy services, as well as the development of communal areas like parks and mosques.

b. Furthermore, in cases where the entity is involved in multiple business ventures, it may incur general overhead expenses for the overall operation of the business. Examples of such overheads include:

1. General office supplies
2. Shared administrative expenses at the corporate level
3. Collective marketing and advertising costs for the group
4. Joint HR and IT expenditure
5. Office rent
6. Professional services (e.g., audit, legal, etc.)

Q57 Where a company is engaged in multiple businesses and multiple real estate development projects, how should the common expenses be allocated?

According to the guidelines outlined for the sectoral method, the allocation of common expenses by an entity should follow these principles:

a. Common expenses incurred in connection with a master development project should be allocated to the real estate business.

b. Group-level common expenses should be allocated to different businesses based on the appropriate method.

Following the allocation, input tax apportionment should be carried out as follows:

For expenses allocated to the real estate sector (A + B), the floorspace method should be applied.

For expenses allocated to different businesses (B), the method should align with the nature of the respective business. For example, the output method might be suitable for the leisure and entertainment sectors.

An issue may arise when a company is involved in multiple real estate projects. In such cases, common expenses may encompass infrastructure costs for several projects. As per the provided guidance, the company is advised to use the GFA of all projects to apportion these common expenses.

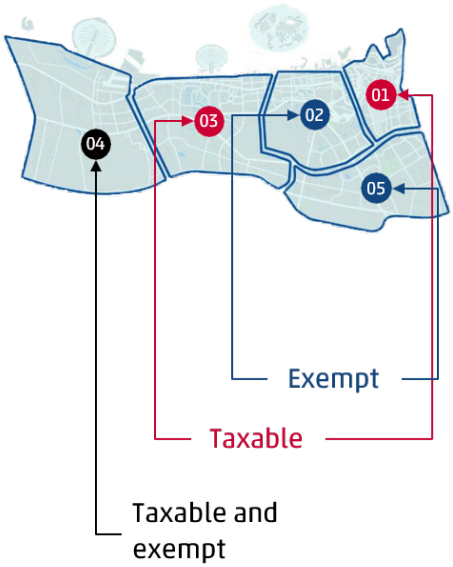
However, this approach might not accurately reflect the actual use of input supplies, since common expenses are specific to each project. Therefore, a more suitable approach would be to employ the floorspace method for each individual project.

Additionally, the group-level common expenses allocated to the real estate business should also be allocated to each project.

It is important to note that there is limited guidance on this matter, and it's advisable to seek clarification from the FTA before proceeding.

> *"Is VAT on launch event expenses recoverable?"*

Q58 In a scenario where phased development is undertaken by a Master Developer, how are the common expenses (i.e., infrastructure costs) to be apportioned?



The VAT incurred on common expenses should be reclaimable as a general overhead cost of the business. The extent of input VAT recovery should be contingent on the nature of supplies, as previously discussed.

In the case of phased construction, the entity may undertake the development of each phase independently. Each such phase could involve either entirely taxable supplies, entirely exempt supplies, or a combination of both. Besides the development costs, the Master Developer will also incur common infrastructure costs. The crucial question here revolves around whether the allocation of these infrastructure costs should be based on the entire project plan or specific to the supplies within each phase.

For example, consider a project consisting of two phases. In Phase 1, the real estate entity plans to sell undeveloped land, and in Phase 2, it intends to sell residential villas. The entity initiates the development of Phase 1 in Year 1 and starts Phase 2 in Year 2. In Year 1, the entity incurs infrastructure costs, such as road construction and park development, in Phase 1. Additionally, from Year 2 onwards, the entity incurs similar costs along with the development expenses for residential villas.

Despite the phased construction, the entity may treat the entire project as a unified whole. Consequently, the input VAT recovery may be based on the entirety of the project. The common infrastructure costs incurred in Year 1 for Phase 1 may be recognized as common expenses and thus apportioned between taxable and exempt supplies in accordance with the floorspace of entire project plan, including Phase 2 (rather than being considered non-recoverable due to their association with exempt supplies). Subsequently, from Year 2 onwards, the development costs incurred should be recoverable, as they pertain to taxable supplies. The apportionment of common infrastructure costs should continue for the entire project.

The above is generic guidance and may not be specifically applicable.

"Whether each phase of a master project, can be considered as a separate project for recovery ratio?"

Q59 Will there be any impact on the input VAT recovery in the event of a change in the project plan?

As a master development project may span multiple years, the project plan can evolve over time, potentially leading to changes in the available floor space.

The key question here is whether the recovery of input VAT (for expenses directly associated with such supplies and common expenses reclaimed through input tax apportionment) could be affected by changes in usage. Typically, such changes may occur in the following scenarios:

Scenarios	Prior to change	Post-change
Transition from selling undeveloped land to selling commercial/ residential property.	Non-recoverable as attributed to exempt supply	Recoverable as attributed to taxable supply
Transition from selling residential property intended for sale within three years to sale after three years.	Recoverable as attributed to taxable supply	Non-recoverable as attributed to exempt supply

The UAE VAT Law allows for adjustments in input VAT recovery due to these changes. In the case of a master development project, it may be feasible to consider making such adjustments to the input tax recovered in the past based on the updated project plan. Businesses may want to consider consulting the FTA to seek clarity on the appropriate approach to adopt.

ABBREVIATIONS

Acronym	Definition
Capex	Capital Expenditure
DLD	Dubai Land Department
EOI	Expression of Interest
MC	Management Company
DOA	Dubai Owners Association
Decision	Cabinet Decision No. 100 of 2024
FTA	Federal Tax Authority
GCC	Gulf Cooperation Council
GFA	Gross Floor Area
JV	Joint Venture
RERA	Real Estate Regulatory Agency
SPA	Sale Purchase Agreement
UAE	United Arab Emirates
UAE VAT ER	Cabinet Decision No. (52) of 2017 on the Executive Regulations of the Federal Decree-Law No (8) of 2017 on Value Added Tax
UAE VAT Law	Federal Decree-Law No. (8) of 2017 on Value Added Tax
VAT	Value Added Tax
w.e.f.	With effect from

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