



TIME FRAME FOR RECOVERING INPUT TAX

MARCH 2020

Bizilance
Consultants

Office No. 3413, 34th Floor,
Churchill Tower 1, Business Bay,
Dubai, UAE

Tel : +971 4 580 8060

Fax : +971 4 580 7912

Cell : +971 52 914 1118

Email : saeed.hasan@bizilance.ae

URL : www.bizilance.ae

HAMDAN ALSHAMSI
LAWYERS & LEGAL CONSULTANTS

Office 107, Bay Square. BLD-07,
Marasi Drive, Business Bay,
Dubai, UAE

E-mail : info@alshamsilegal.com

URL : www.alshamsilegal.com

Time Frame For Recovering Input Tax

The Federal Tax Authority (FTA) of the United Arab Emirates has issued a Public Clarification No. VATP017 clarifying the FTA position, about interpretation of Article 55 of the Federal Decree-Law No. 8 of 2017 on Value Added Tax (VAT Law), regarding time-period within which input tax should be recovered by a taxable person. A summary of the subject Public Clarification is as under.

Article 55(1) of the VAT Law provides that input tax must be recovered in the first tax period in which the following conditions are satisfied:

- a. The taxable person receives the tax invoice; and
- b. The taxable person pays the consideration for the supply or any part thereof.

Article 54(2) of Cabinet Decision No. (52) of 2017 on the Executive Regulations of the VAT Law (Executive Regulations) by referring Article 55(1) of the VAT Law provides that a taxable person is treated as having made a payment of consideration of a supply to the extent that the person intends to make the payment before the expiration of six months after the agreed date of payment for the supply.

Reading Article 55(1) of the VAT Law and Article 54 of the VAT Executive Regulations in juxtaposition reveals that input tax must be recovered in the first tax period in which the following two conditions are satisfied:

- a. the tax invoice is received; and
- b. there is an intention to make the payment of consideration of the supply before the expiration of six months after the agreed date of payment.

There could be a situation where a taxable person may receive a tax invoice but may not have an intention to make the payment until the internal approval process for the invoice is completed. In such cases, the condition of Article 55(1) of the VAT Law regarding intention to make the payment before the expiration of six months after the agreed date of payment is not fulfilled.

The FTA, in the subject Public Clarification, states that the conditions of Article 55(1) of the VAT Law will only be met when the taxable person completes the internal approval process and forms an intention to make the payment within the prescribed period.

In view of this, before recovering input tax, a taxable person needs to substantiate that in addition to receiving a tax invoice, he has also satisfied the condition of forming an intention to make the payment within the prescribed period.

The subject Public Clarification further states that where a tax invoice is received in one tax period and the intention to make the payment is formed in a later tax period, the input tax can only be recovered in such later tax period.

Further, where the input tax is not recovered in the tax period in which both of these conditions are satisfied, the taxable person can recover the input tax in the immediate next tax period.



The subject Public Clarification further states that If input tax is not recovered in the first two tax periods, a taxable person is required to submit a voluntary disclosure. The voluntary disclosure should amend the input tax reported in the VAT return of one of the two tax periods.

Non-payment of consideration before the expiration of six months after the agreed date of payment

The subject Public Clarification in the end clarifies that in case a taxable person fails to make the payment of consideration before the expiration of six months after the agreed date of payment, the taxable person should reduce the input tax in the VAT Return of the tax period following the expiry of the six-month period. However, once the payment is made, the taxable person will again be entitled to recover the input tax.



Please share your queries & responses

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Email: saeed.hasan@bizilance.ae

Cell No: +971 52 914 1118

www.bizilance.ae