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# E-COMMERCE SUPPLIES MADE THROUGH AGENTS

## AUGUST 2020

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## SUPPLIES MADE THROUGH AGENTS

The Federal Tax Authority, United Arab Emirates in August 2020 has issued VAT Guide (VATGEC1) about E-Commerce. Section 5 of the subject Guide discusses “supplies made through agents”. Summary and pertinent matters related to VAT treatment of “supplies made through agents” are discussed hereunder.

### Key Terms

**Electronic Marketplace:** In the context of e-commerce, supplies of goods and services are often made using electronic platforms, portals, gateways of marketplaces, these are referred to as electronic marketplace.

**Intermediary:** When an electronic marketplace is not acting as a principal supplier of goods or services, it may act as an intermediary which enables a sale of goods and services. This may also be referred to as agent.

**Disclosed Agent:** An agent which acts on behalf and in the name of a principal. In disclosed agency situations, the recipient of the supply knows that it is dealing with an agent of a principal, even if the recipient may not have any direct communication with the principal.

**Undisclosed Agent:** An undisclosed agent acting in its own name, where the customer has no knowledge, and cannot be reasonably expected to have knowledge, that the agent is acting on behalf of a principal.

VAT Treatment of Supplies Made Through Agents

Disclosed Agency	Undisclosed Agency
<p>Supply of goods and services through an agent acting in the name of and on behalf of a principal (disclosed agent) is considered to be a supply by the principal and for his benefit. Therefore, the VAT obligations for the supply will remain with the principal supplier, and the principal supplier should account for this VAT in its tax returns.</p>	<p>Supply of goods and services through an agent acting in its name (undisclosed agent) is considered to be a direct supply by the agent and for his benefit. Where an undisclosed agent is involved in a supply of any goods or services, there are two simultaneous supplies of these goods for VAT purposes – a supply from the principal supplier to the undisclosed agent, and a supply from the undisclosed agent to the recipient of the supply.</p> <p>The simultaneous supplies means that both the principal supplier and the undisclosed agent must separately charge VAT applicable on supply of the underlying goods or services, and must account for this VAT to the FTA in their respective returns.</p> <p>The undisclosed agent may also recover the VAT which was charged to it by the principal supplier, where it is so eligible under the general input tax recovery rules.</p>

## VAT Treatment of Agency Services

Disclosed Agency	Undisclosed Agency
<p>Where an agent is charging an agency fee or commission for its agency services, these agency services should be treated as a separate supply of services from the supply of underlying goods or services.</p> <p>Where the place of supply of such agency services is in UAE, the services are considered a taxable supply. The place of supply for agency services provided by agents must be determined independently from the place of supply of underlying goods and services, and therefore can differ from the place of supply of such goods or services.</p> <p>The default rate of VAT, for a taxable supply of agency services, is 5%. The agency services may be subject to zero-rated where they are supplied to a non-resident principal. Following conditions must be met for zero-rated:</p> <ul style="list-style-type: none"> <li>the agency services are supplied to a recipient who does not have a place of residence in the UAE or any Implementing State and who is outside the UAE at the time the services are performed;</li> </ul>	<p>Where an undisclosed agent and the principal agree that the agent can charge a separate agency fee or commission for the agency services to the principal, the agent must consider the VAT treatment of this services separately from the VAT treatment of the underlying supply of goods or services.</p> <p>Where the agent is able to embed the fee as a mark-up to the sale price of the goods or services, then the VAT treatment of the agency services should follow the VAT treatment of the underlying goods or services.</p>

Disclosed Agency	Undisclosed Agency
<ul style="list-style-type: none"> <li>the agency services are not supplied directly in connection with any real estate or goods situated in the UAE at the time the services are performed; and</li> <li>the performance of the agency services is not received by another person in the UAE who is unable to recover any input tax in full.</li> </ul> <p>Where an agent does not charge a fee or commission for its services, VAT would not be applicable on the services.</p>	

### Tax Invoice Requirements

- As a default rule, a VAT registered supplier of a taxable supply of goods or services is required to issue a tax invoice.
- As an exception to the default rule, where a VAT-registered agent makes a supply of goods or services on behalf of a principal, the agent may issue a tax invoice in relation to that supply as if that agent had made the supply. A tax invoice issued by the agent must contain all the usual particulars, but may include the agent's, rather than the supplier's, details – in which case, the invoice should, however, contain a reference to the principal supplier (including the supplier's name and TRN) somewhere on the invoice.
- Only one tax invoice may be issued for any supply of goods or services. Therefore, aforesaid exception is not available where the principal supplier has already issued a tax invoice.
- It is important to note that where the invoice is issued by the agent, the supply is still treated as being made by the principal supplier to the recipient of the supply.
- The undisclosed agent has the responsibility to issue a tax invoice in its own name.