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Refund of Input Tax Incurred on the Construction and Operation of Mosques

Cabinet Decision No. 82 of 2022 – Issued 16 Aug 2022 (effective from 29 Oct 2022)

The Cabinet has decided:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishments of the Federal Tax Authority and its amendments,
- Federal Law No. 7 of 2017 on Tax Procedures and its amendments,
- Federal Decree-Law No. 8 of 2017 on Value Added Tax,
- Federal Law No. 4 of 2018 on the Organisation and Care for Mosques,
- Federal Law No. 5 of 2018 on Endowment,
- Cabinet Decision No. 52 of 2017 on the Executive Regulation of the Federal Decree-Law No. 8 of 2017 on Value Added Tax and its amendments, and
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Article 1 – Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context requires otherwise:

State	: United Arab Emirates.
Minister	: Minister of Finance.
Authority	: Federal Tax Authority.
Tax	: Value Added Tax.
Person	: A natural or legal person.
Donor	: Person or Persons involved in the construction of the Mosque.

Competent Authority	: The General Authority of Islamic Affairs and Endowments, or the local authority concerned with Mosques' affairs.
Refund Request	: The request submitted by the Donor or Operator, as the case may be, to the Authority or Verification Body, in order to recover the Input Tax incurred on the construction, operation or maintenance of the Mosque.
Verification Body	: The entity with which the Authority contracts and determines its scope of work in respect of Refund Requests.
Input Tax	: Tax paid by the person or due from him when goods or services are supplied to him or when conducting an import.
Mosque Operation Commencement Certificate	: A certificate granted to the Donor by the Competent Authority in accordance with the requirements and conditions of Clause 2 of Article 2 of this Decision.
Operator	: The person responsible for the Operation of the Mosque and its maintenance in accordance with a written permit from the Competent Authority.
Mosque	: The space specified for the practice of prayers; the Mosque's yards, entrances, annexures, and facilities shall be treated as the Mosque.
Operation of the Mosque	: All goods and services required to ensure the proper continuity of religious rites, as well as improvement and expansion of the Mosque, provided that they are directly connected with the Mosque's building.

Article 2 – Eligibility for Refund of Input Tax Incurred on the Construction of Mosques

1. The Donor shall have the right to request a refund of Input Tax incurred on the construction of the Mosque where all the following conditions are met:
 - a. The Donor has incurred Input on goods or services directly in connection with the construction of the Mosque.
 - b. The construction was approved by the Competent Authority.
 - c. The Donor has a Mosque Operation Commencement Certificate.
 - d. Any of the following conditions is met:
 - 1) The Mosque has been handed over or is intended to be handed over by the Donor to any other Person for whom the Competent Authority has

- approved the handover of the Mosque to, including the Competent Authority itself, unless the handover is a Taxable Supply.
- 2) The Mosque is operated by the Donor as per the approval obtained from the Competent Authority.
2. The Competent Authority shall issue the Mosque Operation Commencement Certificate referred to in paragraph (c) of Clause 1 of this Article, containing all of the following information:
 - a. Data related to the identity of the Donor, as determined by the Competent Authority in agreement with the Authority.
 - b. Adequate information to identify the Mosque which was constructed by the Donor in accordance with the approval of the Competent Authority.
 - c. The operation date of the Mosque as well as the date of issuance of the Mosque Operation Commencement Certificate, if different from the operation date.
 - d. A confirmation that the Donor has completed construction of the Mosque in accordance with the conditions determined by the Competent Authority.
 3. The Competent Authority shall issue the Mosque Operation Commencement Certificate within 60 days from any of the following, as the case may be:
 - a. The Mosque's date of completion and fulfilment of requirements.
 - b. The effective date of this Decision, for all Mosques completed on or after 1 January 2018 and for which no Mosque Operation Commencement Certificate had been previously issued.
 4. For the purposes of this Decision, the construction of the Mosque includes, in addition to the actual construction process, the equipping and furnishing of the Mosque, and the supply of the necessary equipment, devices, its maintenance, and all that is required to carry out all the authorised activities of the Mosque to the fullest extent, before the date of the Operation of the Mosque.

Article 3 – Process for Refund of Input Tax Incurred on the Construction of Mosques

1. Where the conditions of Article 2 of this Decision are met, the Donor may apply for a Refund Request in accordance with a form prepared by the Authority for this purpose, and the Minister shall issue a Decision setting the deadlines for submission of the request.
2. Where the Donor has retention payments relating to the construction of the Mosque which the Donor must pay after the issuance of the Mosque Operation Commencement Certificate from the Competent Authority, then:
 - a. This does not preclude the Refund Request from being considered complete in accordance with Clause 1 of this Article.

- b. The Donor is permitted to submit a subsequent request directly to the Authority to recover the VAT related to such payments made, within one year of the date of payment with a proof thereof.
3. The Authority or the Verification Body shall review the eligibility of the Donor to the Refund Request, and shall verify and audit the Refund Request in accordance with the requirements established by the Authority in this regard.
4. The Authority or the Verification Body may *inter alia* do the following:
 - a. Verify that the Refund Request submitted by the Donor meets the conditions of Article 2 of this Decision.
 - b. Verify the amount of Input Tax incurred by the Donor on the goods or services directly in connection with the construction of the Mosque, and determine the amount that can be refunded to the Donor.
 - c. Request information or records, and audit the Refund Request.
 - d. Reject the Refund Request if the conditions and procedures are not met.
5. The final decision on the Refund Request shall be issued by the Authority either by acceptance or rejection, and the Authority shall undertake the necessary to refund the amounts due, if any.

Article 4 – Eligibility for Refund of Input Tax Incurred on the Operation of the Mosque

1. The Operator may request a refund of Input Tax incurred on the operation of the Mosque, provided that such goods and services are directly in connection with the Mosque, and where all the following conditions are met:
 - a. The Input Tax is incurred by the Operator on goods or services directly in connection with the Operation of the Mosque and its maintenance, but not in connection with the commercial annexures of the Mosque or their operation.
 - b. The Mosque is registered as a Mosque with the Competent Authority.
 - c. The Operator holds a written time-limited permit issued from the Competent Authority for the Operation of the Mosque during the period for which a Refund Request is made.
2. Except where the Person responsible for the Operation of the Mosque and its maintenance is a Competent Authority, the Competent Authority shall provide the Person responsible for the Operation of the Mosque and its maintenance with a written time-limited renewable permit for the Operation of the Mosque and its maintenance within 60 days from any of the following, as the case may be:
 - a. The date on which the Person takes responsibility for the Operation of the Mosque and its maintenance;

- b. The effective date of this Decision where the Person responsible for the Operation of the Mosque and its maintenance was not provided with a written permit for that purpose before the effective date of this Decision.
- c. The renewal date of the written permit.

Article 5 – Process for Refund of Input Tax Incurred on the Operation of the Mosque

1. Where the conditions of Article 4 of this Decision are met, the Operator may apply for a Refund Request to the Authority in accordance with a form prepared by the Authority for this purpose. The Minister shall issue a Decision setting the timelines for the submission of the request the frequency.
2. The Authority may *inter alia* do the following:
 - a. Verify that the Refund Request submitted by the Operator meets the conditions of Article 4 of this Decision.
 - b. Verify the amount of Input Tax incurred by the Operator on the goods or services directly in connection with the Operation of the Mosque, and determine the amount that can be refunded to the Operator.
 - c. Request information or records, and audit the Refund Requests.
 - d. Reject the Refund Request if the conditions and procedures are not met.
3. Whenever it deems appropriate, the Authority may transfer the Refund Request on the Operation of the Mosque to the Verification Body to review and audit the Refund Request received from the Operator.
4. The final decision on the Refund Request shall be issued by the Authority either by acceptance or rejection, and the Authority shall undertake the necessary to refund the amounts due, if any.

Article 6 – Effective Date of Refund Entitlement

The Donor or Operator may, as the case may be, claim refund of Input Tax incurred from 1 January 2018 on the construction and operation of the Mosque.

Article 7 – Executive Decisions

Without prejudice to the provisions of this Decision,

1. The Authority, where necessary, shall determine the procedures, guidance, documents, record-keeping requirements, etc. for Donors, Operators, the Competent Authority, the Verification Body, and any other relevant Persons.
2. The Competent Authority shall take the necessary measures and procedures to implement the provisions of this Decision.

Article 8 – Publication and Enforcement

This Decision shall be published in the Official Gazette, and shall come into effect after 60 days from the date of its Publication.