



الهيئة الاتحادية للضرائب  
FEDERAL TAX AUTHORITY

# Real Estate

## What is a supply?

VAT will be due where a taxable supply is being made by a Taxable Person



A supply of goods or services

In the UAE

For consideration

By any person

In the course of conducting business

## Taxable supplies: breaking down the detail



### Goods vs. Services

- Goods = the passing of ownership of physical property or the right to use that property as an owner, to another person
- Services = anything which is not a supply of goods is a supply of services



### Consideration

- Consideration is anything received in return for a supply
- If the consideration is only money, the value of that supply is the amount of money received
- Consideration is treated as **VAT inclusive**, so the amount received in payment includes an element of VAT for taxable supplies



### In the UAE

- Place of supply rules determine where the supply is 'made' for VAT purposes
- Where the supply is made within the UAE, UAE VAT will be due
- There are different place of supply rules for goods and services

## Taxable supplies: breaking down the detail



### Made by a person

- Registered for VAT or required to be registered for VAT
- Businesses become required to be registered when their turnover reaches a certain threshold
- It is possible for businesses to voluntarily register for VAT before if they reach a lower voluntary threshold



### In the course of business

Business includes:

- Any activity conducted regularly, on an ongoing basis
- Independently by any person, in any location
- Including industrial, commercial, agricultural, professional, service or excavation activities or anything related to the use of tangible or intangible properties

## Place of supply

Place of supply rules will determine whether a supply is made in the UAE or outside the UAE for VAT purposes:

- If the supply is treated as made outside the UAE: no UAE VAT will be charged
- If the supply is treated as made in the UAE: VAT may be charged



### Goods

- **Basic rule:** the place of supply is the location of goods when the supply takes place
- **Special rules**, for example:
  - ❖ Cross-border supplies of goods – that is supplies which involve parties in different countries
  - ❖ Water and energy
  - ❖ Real estate

### Services

- **Basic rule:** the place of supply is where the supplier has the place of residence
- **Special rules**, for example:
  - ❖ Cross-border supplies of services between businesses
  - ❖ Electronically supplies services – where services are used or enjoyed

## Place of Supply Services (1/2)

**Basic rule** = where the supplier has their place of residence

**Specific rules** =



Place of supply of services supplied to recipients who are VAT registered in another GCC State **is that other GCC State** unless the place of supply is the UAE for another reason



Place of supply of services supplied by a person that is not resident in the UAE to a VAT registered business resident in the UAE **is in the UAE**



Place of supply of services relating to the installation of goods **is where the service is performed**



Place of supply of restaurant, hotel and catering services is **where they are performed**

## Place of Supply Services (2/2)

### Specific rules =



Place of supply of real estate services **is the location of the real estate**



Place of supply of transport services **is where the transport begins**



Place of supply of a means of transport to a person not registered for VAT in the GCC **is where the goods are put at the disposal of the recipient**



Place of supply of telecommunications and electronic services **is where the services are actually used and enjoyed by the recipient**



Place of supply of cultural, artistic, sporting, educational or similar services **is where they are performed**

## Real Estate services – some examples

- Real estate related services are supplied where the real estate is situated
- Some examples:

### Real Estate services



- ❖ The provision of hotel accommodation
- ❖ Services of estate agents and real estate experts
- ❖ Services related to construction work
- ❖ Architect services relating to a specific plot of land

### Not real estate services



- ❖ Secondment of staff to a building site
- ❖ Advice or information relating to land or property markets generally



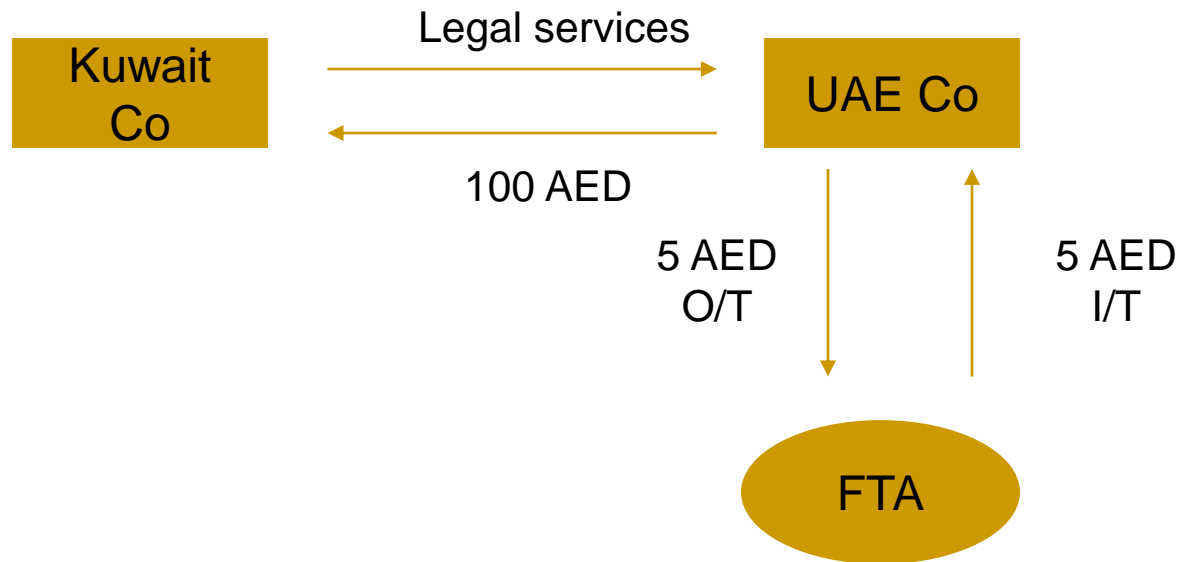


## Place of Supply Services - Reverse charge mechanism

- In situations where a VAT registered person imports services into the UAE which would be subject to VAT if purchased in the UAE, the VAT registered purchaser has to account for VAT in respect of those supplies
- Typically used for cross-border transactions to relieve a non-resident supplier from the requirement to register and account for VAT in the country of the purchaser
- The purchaser will account for VAT on its normal VAT return and he may be able to claim that VAT back on the same return, subject to the normal VAT recovery rules

## Place of supply: Examples

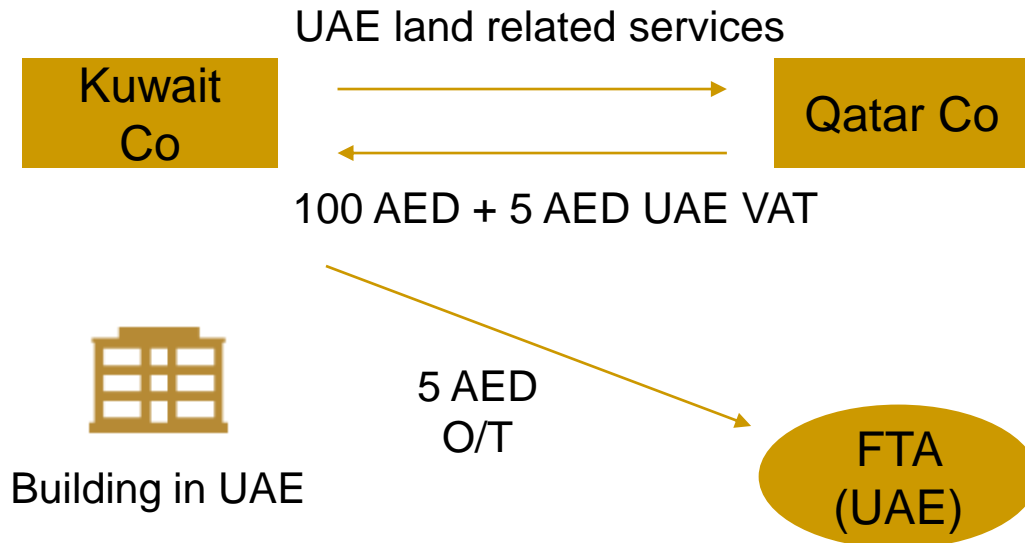
### Example 1 – Cross border B2B supply – services supplied where the customer resides



- Kuwait Co supplies legal services to UAE Co and does not charge Kuwaiti VAT
- UAE Co remits 100 AED to Kuwait Co
- UAE Co accounts for VAT under the reverse charge mechanism

## Place of supply: Examples

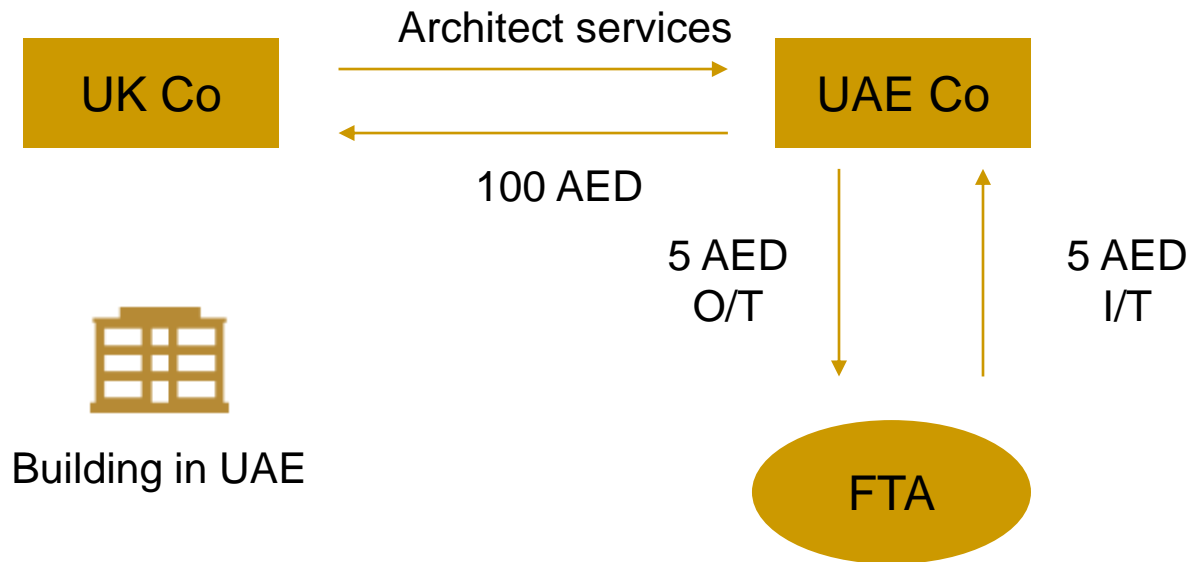
### Example 2 – Cross border B2B supply of real estate services – services supplied where the real estate is located



- Kuwait Co supplies UAE land related services to Qatar Co
- Place of supply: UAE (where the building is located)
- Kuwait Co has to register in the UAE and account for UAE VAT

## Place of supply: Examples

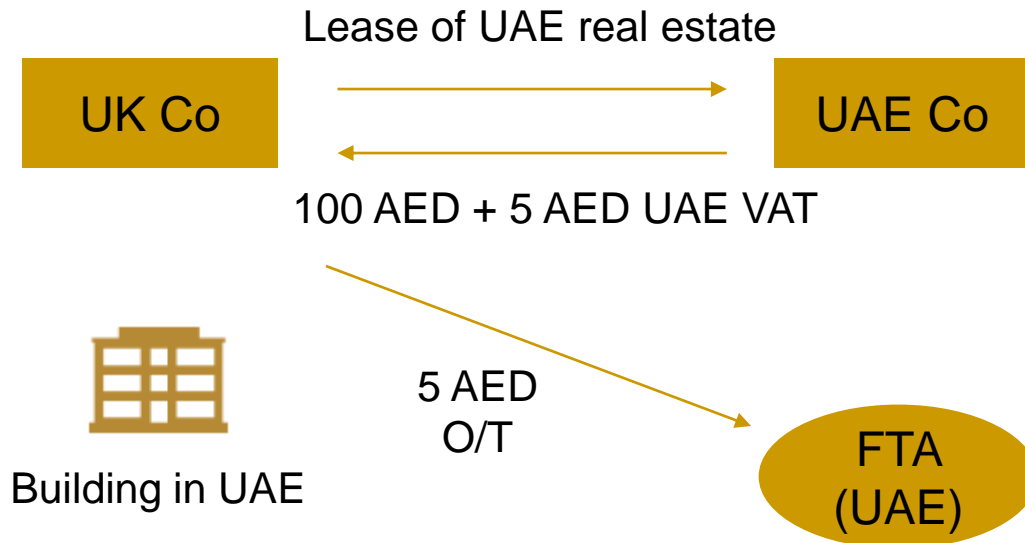
### Example 3 – Inbound real estate services supplied B2B to a customer in the UAE



- UK Co supplies architect services to UAE Co which relates to a specific building in the UAE
- UK Co does not charge VAT because UAE Co is VAT registered
- UAE Co remits 100 AED to UK Co
- UAE Co accounts for VAT under the reverse charge mechanism

## Place of supply: Examples

### Example 4 – Lease of UAE real estate by a non-UAE landlord



- UK Co leases a building in UAE to UAE Co
- The building may constitute a fixed establishment in the UAE
- UK Co has to register in the UAE and account for UAE VAT



# Date of supply: When to account for output VAT on supplies

## Basic tax point for goods

- Date of removal of goods (in case of supply of goods with transportation) [Article 23(2a); GCC VAT Agreement]
- Date on which goods made available to customer (in case of supply not involving transportation) [Article 23(2b); GCC VAT Agreement]
- Date of assembly/ installation (supply of goods involving assembly or installation) [Article 23(2c); GCC VAT Agreement]

## Basic tax point for services

- Date on which performance of service is complete [Article 23(2d); GCC VAT Agreement]



# Date of supply: When to account for output VAT on supplies

## Overriding the basic tax point

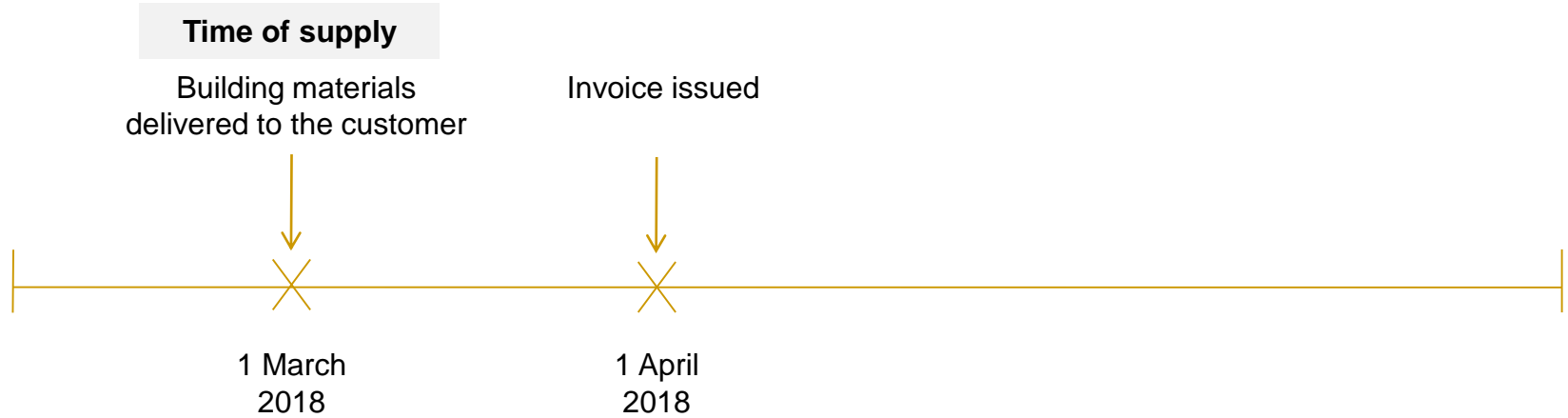
- Receipt of payment or the date of a VAT invoice if earlier than the basic tax point

## Continuous supplies & stage payments

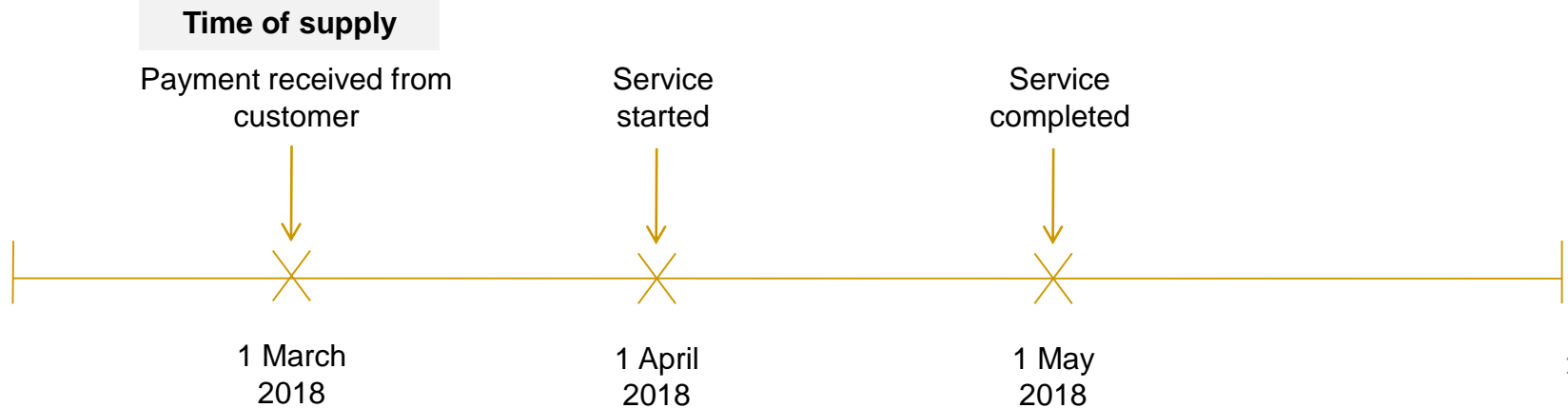
- The earlier of receipt of payment, the due date of payment shown on the VAT invoice or the date of the VAT invoice

# Date of Supply: Examples

## Example 1



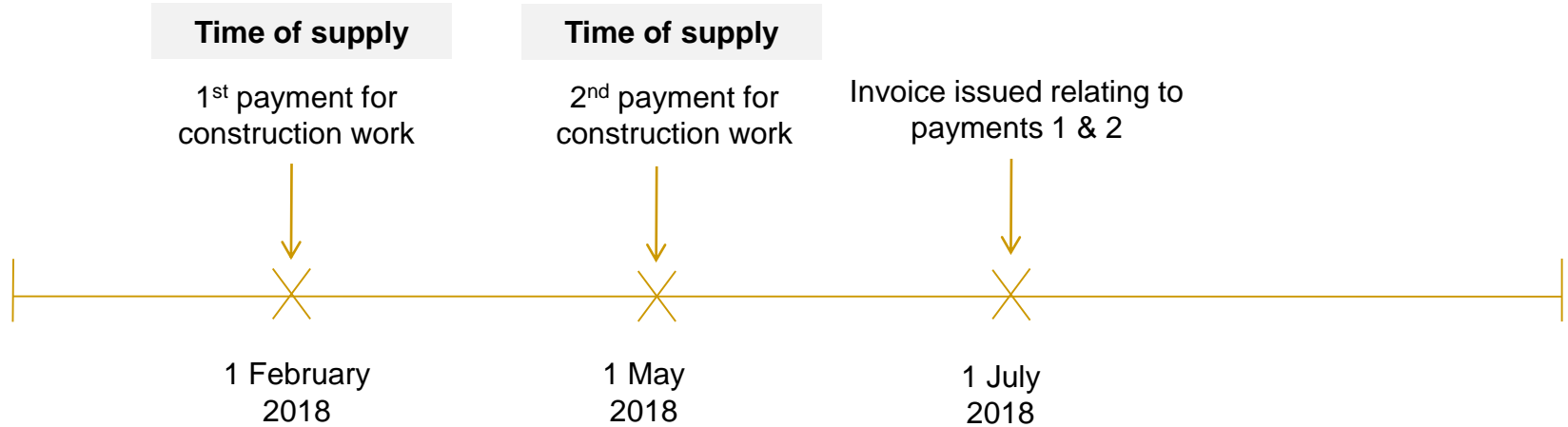
## Example 2



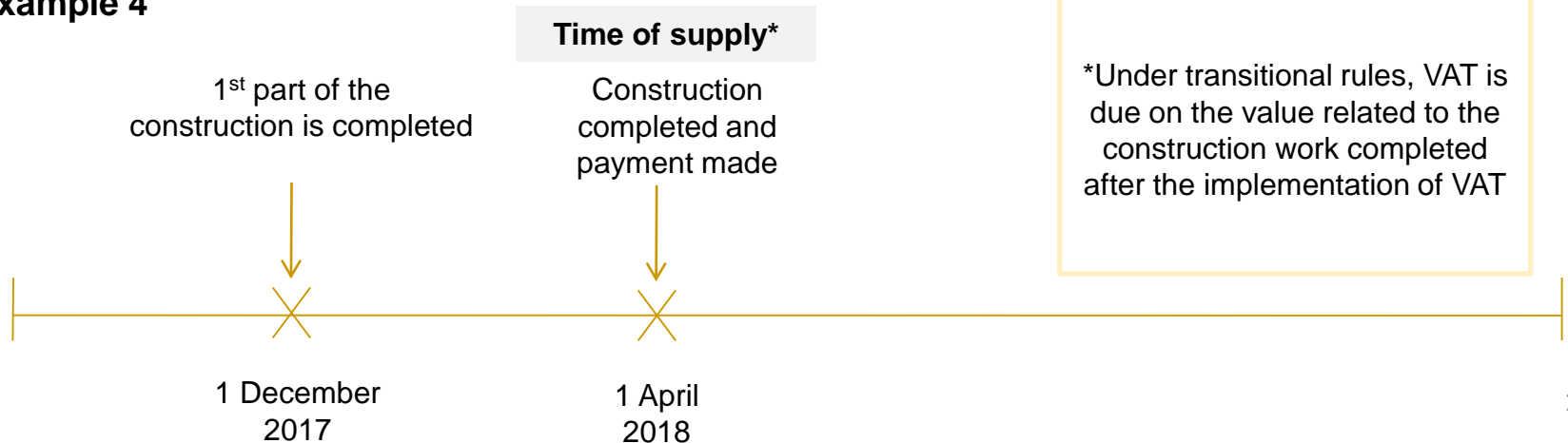


# Date of Supply: Examples

## Example 3



## Example 4



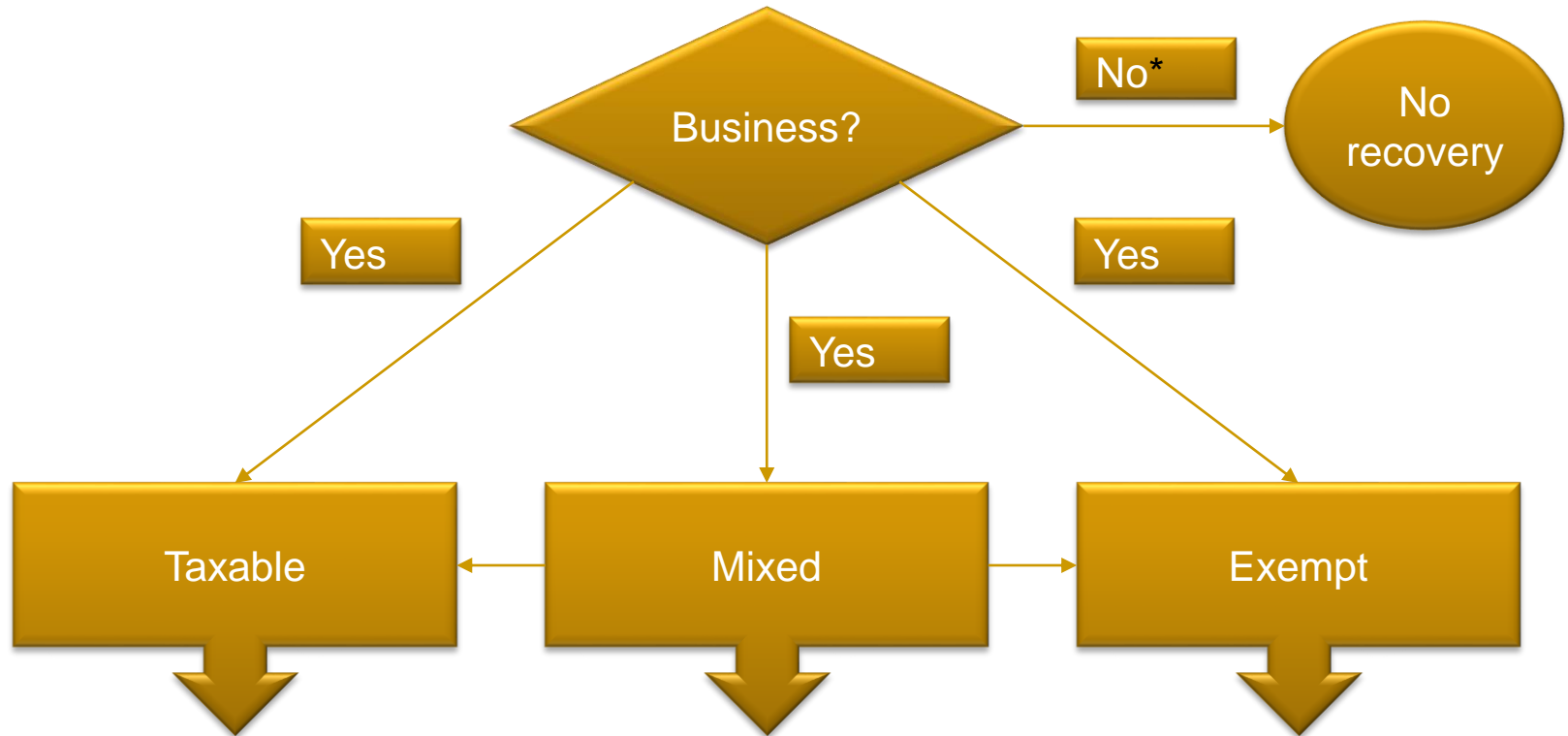


## Input Tax Recovery Conditions

In order for input tax to be deductible by a person, a number of conditions must be satisfied by the recipient of the supply:

- 1) Recipient must be a **taxable person** and must be registered for VAT
- 2) VAT on the purchase must have been **correctly charged** by the supplier
- 3) The goods or services have been acquired for an **eligible purpose**
- 4) Recipient must received and retained a tax invoice **evidencing the transaction**
- 5) The amount of VAT which the recipient seeks to recover must **have been paid** in whole or in part, **or intended to be paid** in whole or in part
- 6) Certain incurred VAT **is specifically blocked** from being recoverable as input tax regardless of whether the above conditions have been met

## Input tax apportionment



Calculate recoverable portion of 'mixed' input tax by reference to the ratio of input tax relating to taxable supplies to the total input tax incurred

## Challenges in the Real Estate industry

### Long term contracts

When to account for VAT?

### Cash flow

When I will get the payment?

### Transitional rules and certification

Has the work actually been completed?

### Documentation

Are invoices currently issued for each rental payment?

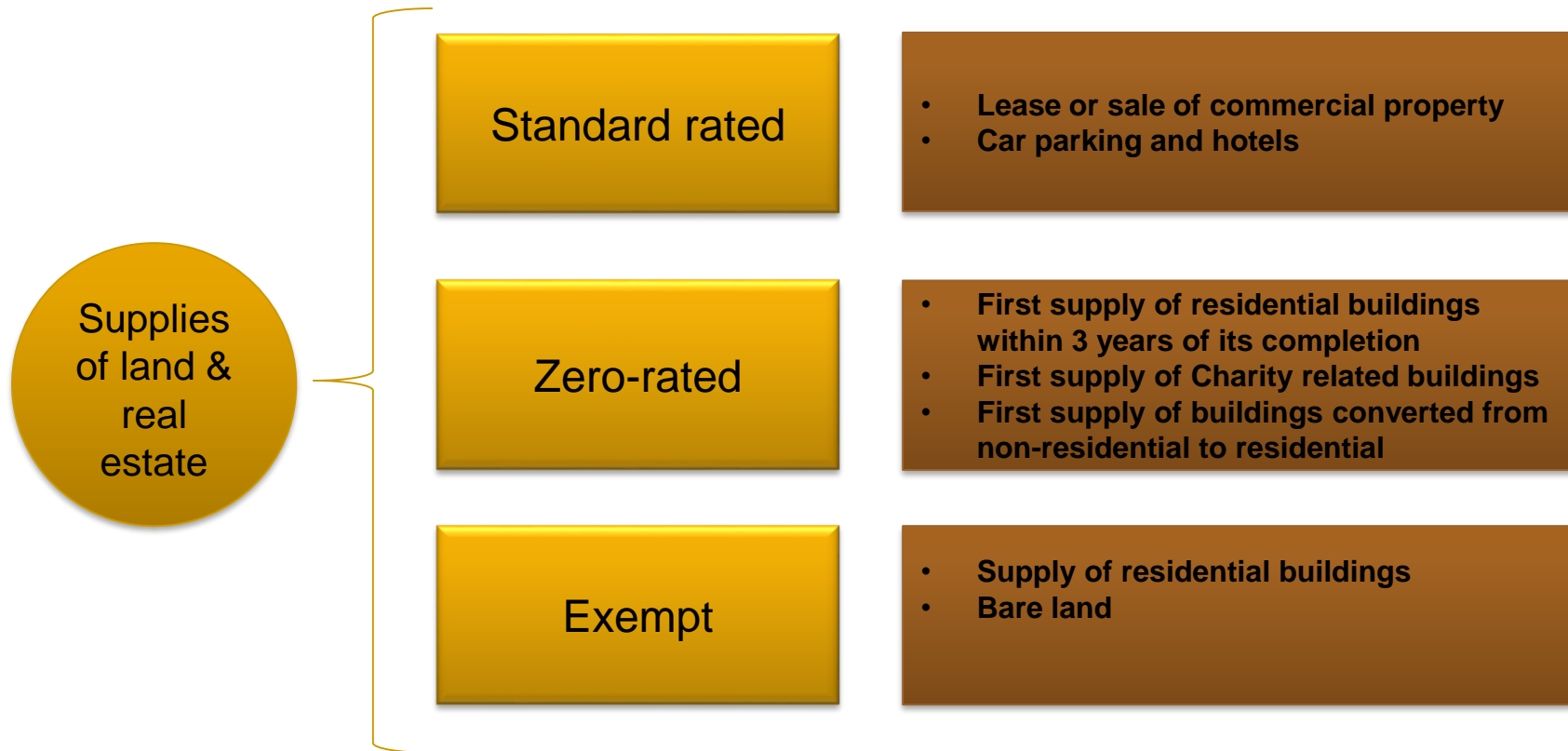
### Un-registered sub-contractors

They will increase their costs?

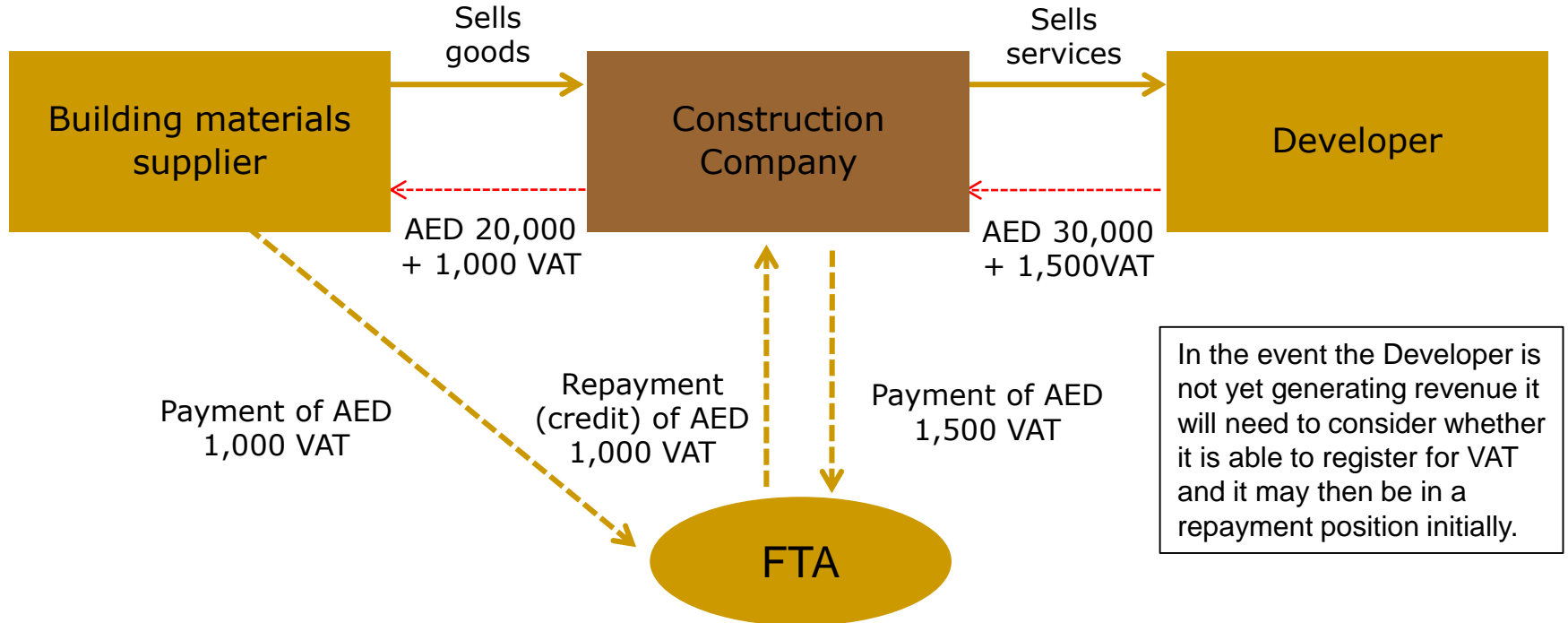
### Input tax credit

How to apportion input tax on mixed use developments?

# Supplies of land and real estate

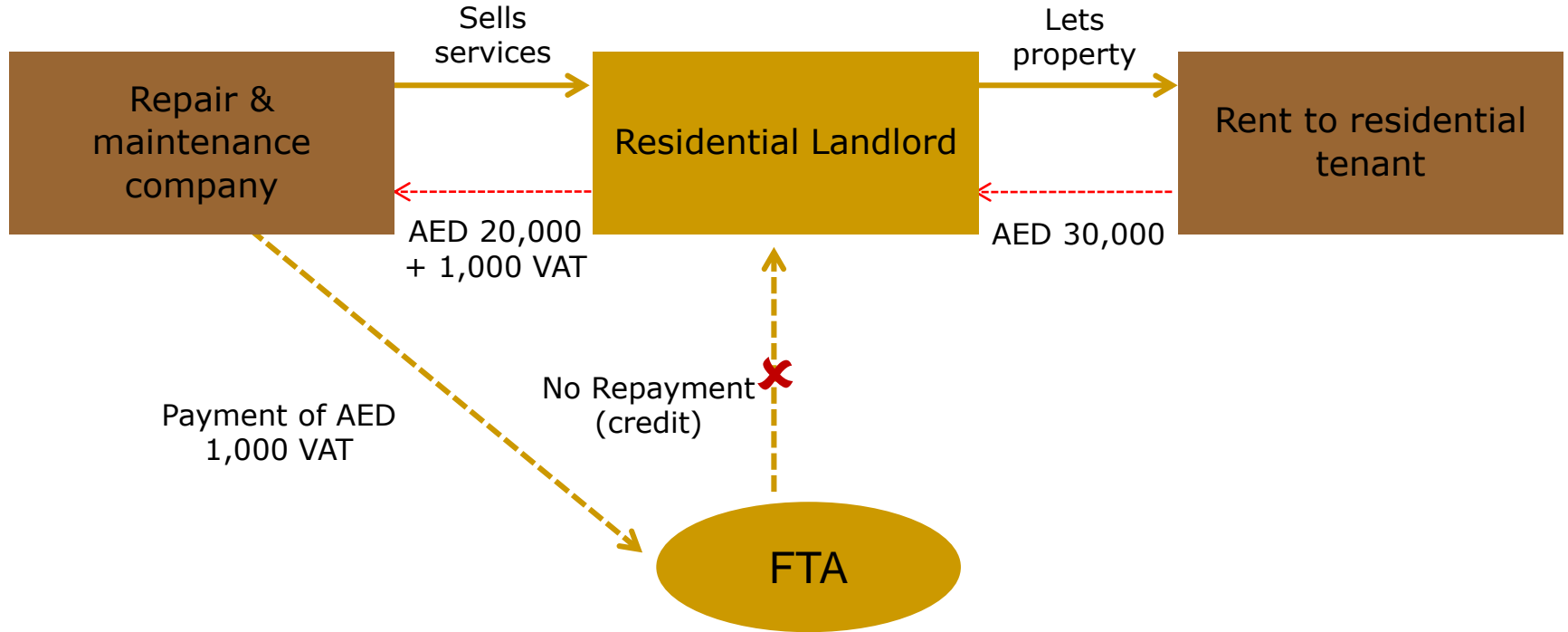


## Example – taxable supply chain



	Sale	VAT charged on sale	VAT recoverable on purchases	Net payable to tax authority
Building materials supplier	20,000	1,000		1,000
Construction company	30,000	1,500	1,000	500
<b>VAT borne by developer?</b>				<b>1,500</b>

## Example – exempt supply



	Sale	VAT charged on sale	VAT recoverable on purchases	Net payable to tax authority
Repair & maintenance company	20,000	1,000	-	1,000
Residential landlord	30,000	0	0	0
<b>VAT borne by landlord?</b>				<b>1,000</b>

## Hospitality – Hotels vs. Residential accommodation



The provision of hotel accommodation will be subject to VAT at the standard rate, whereas the provision of residential accommodation will be exempt from VAT.

There are some key distinctions which indicate a supply of accommodation for someone to occupy is not residential accommodation, and therefore should be classified as hotel accommodation or similar.

### Residential accommodation

- a building intended and designed for human occupation including:
  - A person's principal place of residence
  - residential accommodation for students or school pupils
  - residential accommodation for armed forces and police
  - orphanages, nursing homes, and rest homes

### Non-residential accommodation

- A residential building is not any of the following:
  - any place that is not a building fixed to the ground and can be moved without being damaged
  - any building that is used as a hotel, motel, bed and breakfast establishment, or hospital or the like
  - a serviced apartment for which services in addition to the supply of accommodation are provided
  - any building constructed or converted without lawful authority



## Short term leases

However, the supply of residential accommodation will only be exempt from VAT where:



- The duration of the lease exceeds 6 months; or
- The tenant of the property holds an Emirates ID



*12 months*



***Exempt***

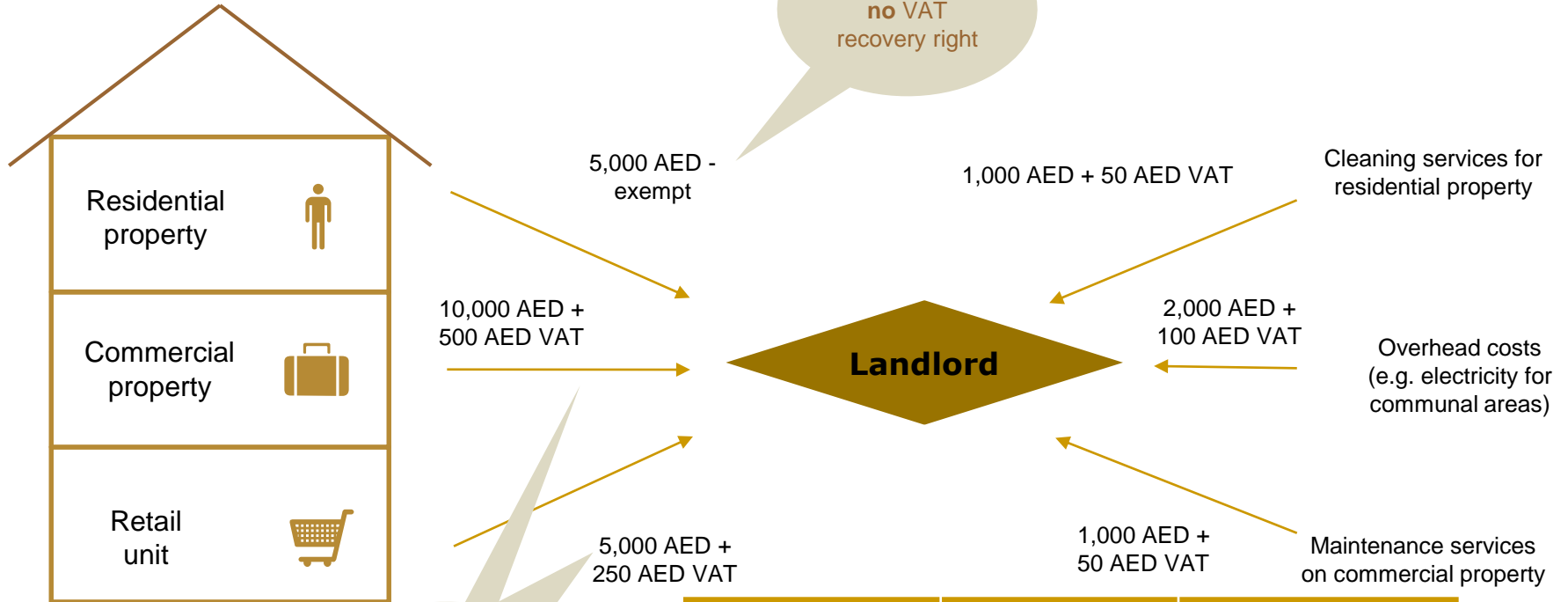


*3 months (and no Emirates ID)*



**+ 5% VAT**

# When to recover input VAT



$$\frac{50 \text{ AED (taxable input tax)}}{50 \text{ AED} + 50 \text{ AED (taxable + exempt input tax)}}$$

= **50 %** VAT recovery right on overhead costs

	Input VAT	Deductible amount
Cleaning services	50 AED	0 AED
Maintenance services	50 AED	50 AED
Overhead costs	100 AED	50 AED
<b>Total</b>	<b>200 AED</b>	<b>100 AED</b>

## Capital Assets Scheme

- Adjustment of VAT recovery on costs incurred relating to large value capital assets with a long useful life
- Intended to reflect the use of the asset for taxable or exempt purposes over its useful life – intended use of the asset may change over time and VAT recovery based on intended first use may not fairly reflect its use over time

### WHAT?

Qualifying assets > 5,000,000 AED on which VAT was payable:

- building or a part thereof: useful life > 120 months
- other than building or parts thereof (e.g. computer): useful life > 60 months

### ON WHAT PERIOD?

- building or a part of a building – 10 years
- Assets other than a building – 5 years





## Capital Assets Scheme – adjustment calculation

Year 1: recover input tax incurred on the purchase of the asset based on the expected taxable use of the asset e.g. 100% taxable use, therefore recover all input tax incurred in full

Year 2 – 10: adjust input tax recovery for that year based on that year's taxable use e.g. total input tax incurred / 10 years = input tax for year 2 x difference between initial recovery percentage and actual taxable use

Total input tax on capital item

Adjustment period

X

(Original taxable  
use % – actual  
taxable use %)

=

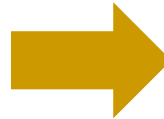
Additional VAT  
recoverable from FTA  
/additional VAT payable  
to FTA

# Capital Assets Scheme: Example

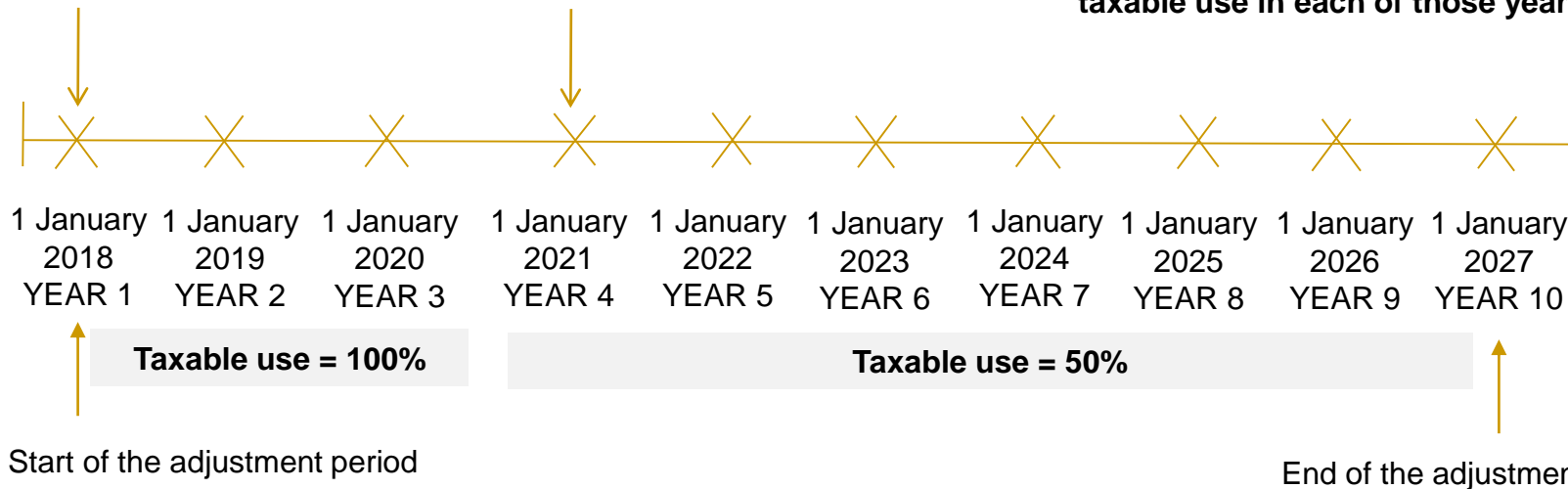
Acquisition of the Real Estate

VAT recovery = 250,000 AED

$(250,000/10) \times 50\% =$   
12,500 AED due to the FTA



The company must repay 12,500 AED of input VAT to the FTA each year in Years 4 – 10 on the basis that the building is used for 50% taxable use in each of those years



NOTE: No capital asset adjustment is required in Years 2 & 3 as the taxable use of the building remains the same as the taxable use in Year 1 i.e. 100%

## Capital Assets Scheme: exclusion for new residential buildings



- Where the first supply of a residential property is a zero-rated lease, the costs incurred in relation to that property can be deducted in full – directly attributable to the first zero rated supply
- This rule applies regardless of an intention to make future exempt supplies of the property e.g. second supply of a residential property by way of lease or sale
- As a result, there is no need to apply the capital assets scheme in such circumstances

## Transfer of a Going Concern (“TOGC”)



*Outside the scope of VAT*



The transfer of the whole or an independent part of a business to a taxable person for the purposes of continuing such business

A property rental business can be a TOGC where it is transferred along with all of the components necessary to make it a business. This could include:

- Continuing lease contracts with tenants
- Staff required to operate the business
- The property required to operate the business
- Contracts necessary to operate the business



# Input Tax Recovery

## "DIY House builders" scheme

This is a scheme set up to allow individuals building their own residence to reclaim VAT spent on building materials and some other services – intended to put a person in the same VAT position as if they had purchased a newly completed residential building (i.e. VAT would apply to that purchase at 0%)



### What can be deductible?

- Input VAT relating to the construction of a person's residence or the residence of their family
- Input VAT incurred on contractor's services (e.g. builders, architects, engineers etc.) and building materials (not including e.g. furniture and appliances other than fitted furniture and appliances etc.)



UAE  
national

### Who?

- An individual who is a National of the UAE



6 months<

### How?

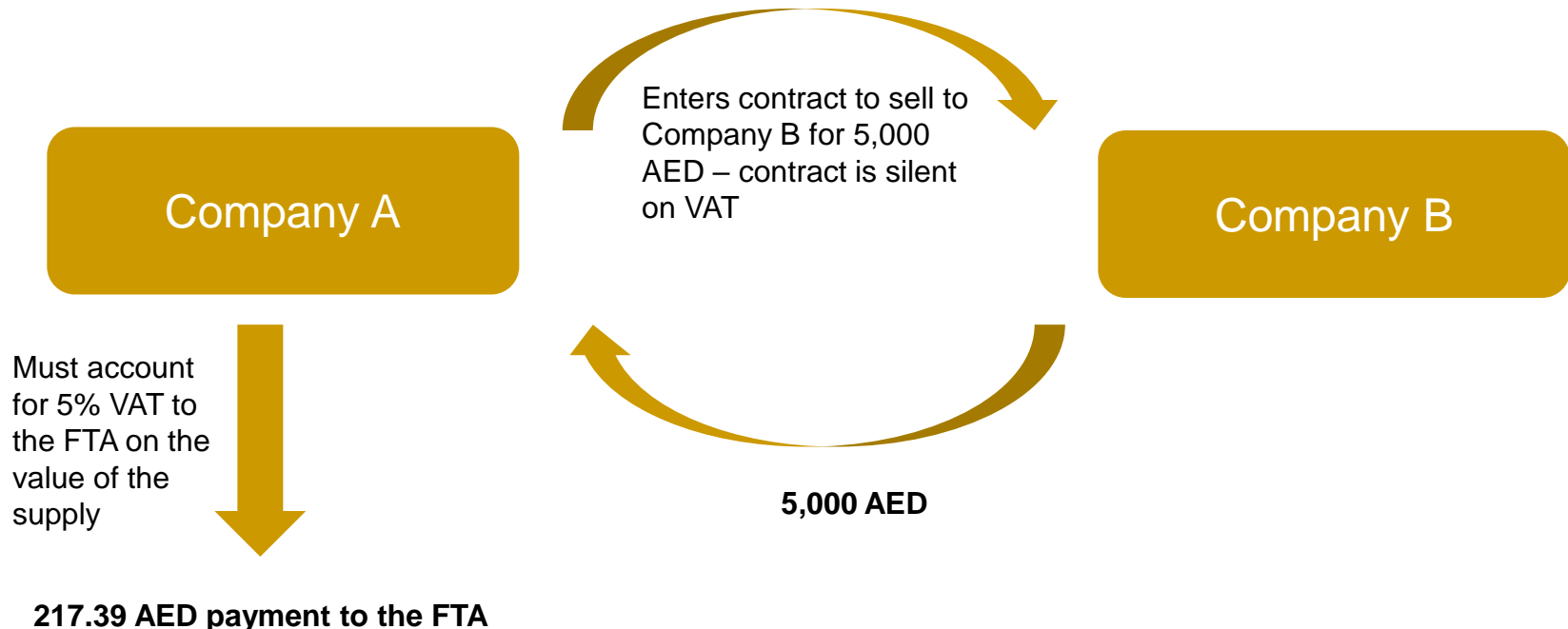
- By submitting a refund claim to the Tax Authority within 6 months from the date of the completion of the newly built residence.
- A claim may not be made in connection with a building that the Person intends to sell or lease to someone else within a period of two years of its construction



## Transitional Rules - Contracts

Where a contract is entered into prior to the effective date of the VAT law which concerns a supply made wholly or partly after the effective date of the VAT Law, VAT will be due on the supply taking place after the effective date of the VAT Law.

If the contract does not mention VAT, the value of the supply stated in the contract shall be treated as **inclusive of VAT**.



## Transitional Rules - Contracts

However, where Company B is registered for VAT and is entitled to full VAT recovery on costs incurred, Company A can treat the contract as if the price stated was exclusive of VAT and is able to charge VAT to Company B in addition.





## Transitional Rules – Early invoicing or payment

Where an invoice is issued or payment is received prior to the date the VAT Law comes in to effect, the value of the payment/invoice will be subject to VAT where the following takes place **after the date the VAT Law comes in to effect**:

- Transfer of goods under the supplier's supervision
- Goods are placed in the possession of the recipient of the goods
- Completion of assembly of the goods
- A customs statement is issued
- The customer accepts the supply of goods

The rules above are intended to avoid invoices being issued or payments being made prior to the effective date of the VAT law for supplies of goods which effectively take place after the effective date of the VAT law, for the purposes of avoiding tax.

## Transitional Rules – Real Estate Example

Contracts for the rental of real estate which span the VAT implementation date will be treated as subject to VAT to the extent the value payable relates to the rental which took place after the effective date of the VAT law.

