



CRITERIA FOR DETERMINATION OF PARTS AND PIECES OF ELECTRONIC DEVICES

OVERVIEW

The Federal Tax Authority ('the FTA') of UAE has issued VAT Public Clarification ('Public Clarification') recently on "**Criteria to be followed in the Determination of Parts and Pieces of Electronic Devices**" read with Cabinet Decision No. 91 of 2023 on the Application of RCM on Electronic Devices among Registrants in the State for the purposes of VAT ("Cabinet Decision No. 91") and Ministerial Decision No. 262 of 2023 on the Criteria to be Followed to Determine of Pieces and Parts of Electronic Devices ("Ministerial Decision No. 262"). Said Public Clarification intends to clarify the new legislation and the goods meeting the criteria.

As per Article 3(1) of the Ministerial Decision No. 262, Pieces and Parts are considered related to Electronic Devices, if they meet any of the following criteria:

- Pieces and Parts that are normally used for the manufacturing or production of Electronic Devices, and are considered necessary for the normal operation of the Electronic Devices.
- Pieces and Parts that are not normally used for the manufacturing or production of Electronic Devices, but are normally necessary for the operation of the Electronic Devices, such as chargers, power cords, battery packs and other similar Pieces and Parts.
- Pieces and Parts that are a replacement for Pieces and Parts that meet the criteria in paragraphs (1) and (2) as mentioned above.

Further, as per Article 3(2)(a) of the Ministerial Decision No. 262 pieces and parts that merely enhance the functioning or enjoyment of Electronic Devices, are not considered to be meeting the criteria to be related to Electronic Devices.

Furthermore, it is pertinent to note that the criteria are to be considered separately from each other. It is possible that a piece or part does not fall under one criterion but, because of its characteristics, meets another criterion.

IN-DEPTH ANALYSIS

- Criterion One – Normally used in the manufacturing or production and necessary for the normal operation Top of Form:

Said criteria applies to all pieces and parts that are used in the making of manufacturing or production of mobile phones, smart phones, computer devices and tablets. It includes coils, capacitors, diodes, microchips, and other such pieces and parts of smartphones, mobile phones, and tablets. Also, internal components like smartwatch parts, computer hardware, and essential components such as portable computer keyboards are included. It is pertinent to note that to meet the criterion, the above pieces and parts must also be required for the normal operation of the devices.

However, it is to be noted that external input and output devices, which are not normally used in the manufacturing process of Electronic devices, does not fall under said criterion.

- Criterion two – Pieces and Parts that are not normally used for the manufacturing or production of Electronic Devices, but are normally necessary for the normal operation of Electronic Devices:
- It is to be noted that an electronic device may operate normally for a certain amount of time without the use or application of such pieces and parts, however their continuing normal operation can only be ensured with the use of the pieces and parts that meet said criterion, such as chargers, external monitors, mice and keyboards for desktop computers etc. Criterion Three – Replacement Pieces and Parts:

Pieces and parts that meet the third criterion are those pieces and parts that are a replacement for any of the goods that meet either of the first two criteria. For e.g., and as clarified above, coils, capacitors, couplers, diodes, regulators, resistors, transistors, microchips and other such pieces and parts of smart phones, mobile phones etc. Such pieces and parts are also classified as “replacement parts” that meet the said criterion when separately supplied by a Registrant to another Registrant, who intends to resell these.

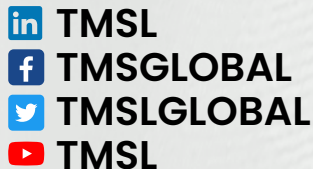
OUR REMARKS

- It is pertinent to note that the Pieces and Parts that enhance the functioning or enjoyment of Electronic Devices, but are not necessary for the operation of the Electronic Devices or the activation of their features are considered not to be meeting the criteria to be related to Electronic Devices.
- It is to be noted that aforesaid exclusion applies to external pieces and parts. Examples of such pieces and parts include but are not limited to external speakers, phone cases and covers, a keyboard with device cover combination for a tablet, headphones and earphones, screen protectors, selfie sticks, device holders, power adapters, pencils for tablets, projectors, USB sticks, dongles, etc. ***It is the responsibility of the supplier to consider the application of Article (4) of the Executive Regulation and assess if the supply constitutes a single composite supply for the application of Cabinet Decision No. 91***
- Further, it is pertinent to note that said Public Clarification only intends to clarify the new legislation and ***it remains the responsibility of the Registrants in the transaction to determine if goods supplied meet the criteria stated in Ministerial Decision No. 262 and, hence, whether the supply of these goods falls within the scope of the tax treatment defined in Cabinet Decision No. 91***

DISCLAIMER:

The information contained herein is of a general nature and is therefore not intended to address the circumstances of any particular individual / entity. It is meant for general guidance only and has been presented in a summarized form. Although, we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. The interpretations, conclusions, comments, remarks represent author's opinion only. It may contain unintended inaccuracies / mistakes that we have tried to avoid, However, the possibility of a human error cannot be ruled out. TMSL Management Consultancies Co. will not accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.

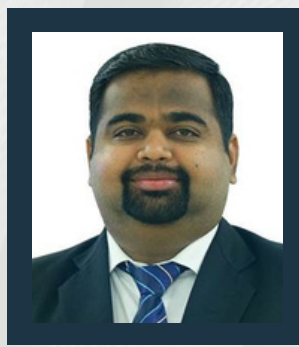
Attention of the readers is also invited to MoFs press-release dated 19 May 2023 per which "a number of post circulating on social media and other platforms that are issued by private parties, contain inaccurate and unreliable interpretations and analyses of Corporate Tax". The Ministry reminded that official sources of information on Federal Taxes in the UAE are MoF and FTA only. Therefore, analyses that are not issued by them are unreliable and may contain misleading interpretations of the UAE CT Law. The readers are requested to factor in the same and also the fact that this post is not commissioned by MoF or FTA.

SOCIAL:**OFFICE ADDRESS:**

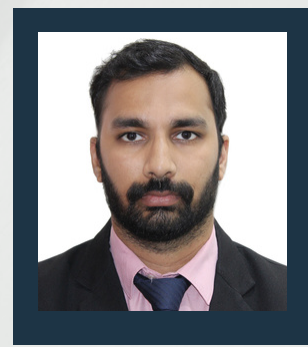
Office No. 501, Al Moosa Tower 1,
Sheikh Zayed Road, Trade Centre 1,
Dubai UAE.
PO Box 77106

OUR LEADERS

RAVI CHITNIS
ravi.chitnis@tmsglobal.com



PRATIK SHAH
pratik.shah@tmsglobal.com



PIYUSH BAID
piyush.baid@tmsglobal.com

CONTACT: WWW.TMSLGLOBAL.COM | INFO@TMSL.IN

Ravi Chitnis | Pratik Shah | Piyush Baid
+971 50 654 4867 | +971 55 957 8232 | +971 54 449 5785