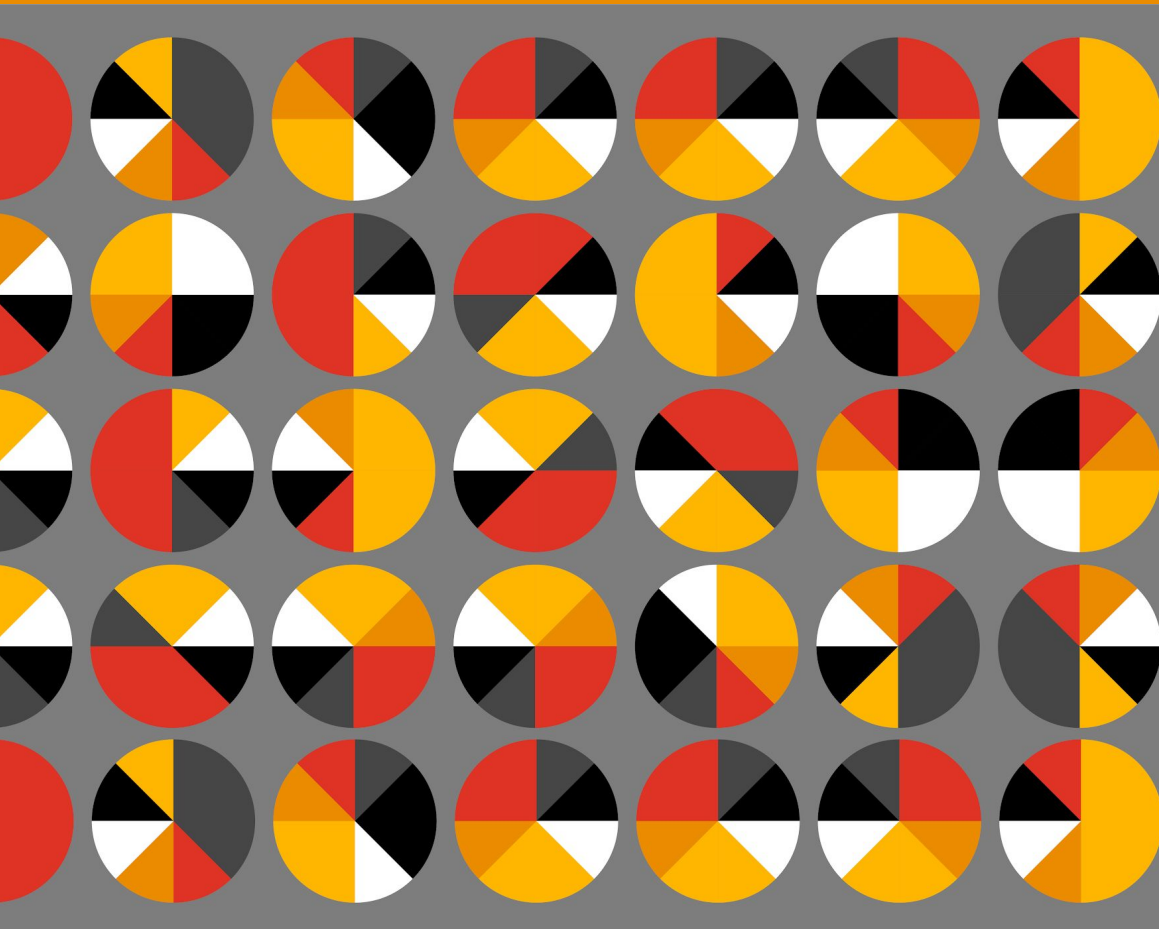


Saudi Arabia: New amendments to the VAT Implementing Regulations

October 2020



In brief

In accordance with the directions stipulated in the Royal Order Number A/84, the Board of Directors of the General Authority of Zakat and Tax (“GAZT”) has approved the amendments/additions of some articles of the KSA VAT Implementing Regulations and repealed some other articles. This decision enters into force on 4 October 2020.

The official announcement can be accessed through the following link:

<https://www.ugm.gov.sa/lang/ar/pdf/viewer/1601651405964711300/1601651405000>

In detail

Pursuant to the Royal Order A/84 consisting of exempting the supply of real estate properties in KSA from VAT and refunding input VAT for real estate licensed developers, the Board of Directors of GAZT has approved amendments/additions to some articles in the VAT regulations and repealed other articles.

This change has a potential impact on real estate supplies in KSA. VAT output will no longer be charged, however, this will mostly impact the eligibility for input tax deduction, apportionment and VAT refunds.

Real estate developers, financial services institutions, funds and other taxable persons engaged in real estate transactions will be affected by this change and should consider and assess the impact on their operations and VAT compliance.

In addition, since VAT on real estate supplies has been eliminated, the taxation of individuals who were previously perceived to be exercising an economic activities for dealing in real estate properties is no longer applicable. Therefore, the following articles have been repealed or amended as they are no longer relevant.

- Article 6 paragraph 5
- Article 9 paragraphs 7 & 8
- Article 13 paragraph 5
- Article 20 paragraph 6
- Article 53 paragraph 10
- Article 58 paragraph 8
- Article 59 paragraph 9
- Article 62 paragraph 3

Individuals who were previously registered with GAZT in order to settle VAT liabilities associated with their real estate transaction have to carefully assess the implications of these changes on their registration status and VAT position and contact GAZT to address legacy matters related to their VAT registration, filings and payments.

Furthermore, the following articles of the VAT implementing regulations have been amended or added.

Article number	What are the changes?
Article 30 - Lease or license of residential real estate	<ul style="list-style-type: none"> ● The title of this Article has been changed to “<i>Real estate exempt supplies</i>” ● Paragraph 1 has been amended as follow: <p style="margin-left: 40px;"><i>“Subject to the other express provisions of these Regulations, the following supplies are exempt from VAT:</i></p> <ul style="list-style-type: none"> C. <i>Supply of real estate - residential, commercial, agricultural developed/undeveloped land - by transfer of ownership or giving the right to use/dispose as owner</i> D. <i>Supply by way of lease or license of Residential Real Estate”</i>
Article 40 - Adjustment to value of a supply	<p>Paragraph 2 has been amended as follows:</p> <p><i>“Where the value of the supply is adjusted because of any of the cases described in the first paragraph of this article has occurred, an adjustment to tax amount previously reported must be made in accordance with the third paragraph of this article if the supplier has each of the following:</i></p> <p>....</p>
Article 43 - Collection of tax on imports upon entry into the Kingdom	<p>Paragraph 3 has been added as follows:</p> <p><i>“The tax due on imported goods shall be payable on the date of import, and the General Authority of Customs shall collect tax due according to its procedures. In the event that payment of that tax is not postponed to be reported through the tax return of the taxable person in accordance with Article 44 of these regulations, the board of directors of the Authority may set the date of payment in specific exceptional cases provided that this date does not exceed thirty days from the date of import. The board of directors may set necessary conditions, controls and procedures for this in coordination with the General Commission for Customs.”</i></p>
Article 49 - Input tax deduction	<p>Paragraph 9 has been added as follows:</p> <p><i>“In the event that a taxable person incurred input tax on the purchase, construction, renovation or modification of a property for the purpose of supplying it as a taxable supply and the real estate supply was exempted in accordance with the provisions of Paragraph A of Article 30 of this Regulation, the person may deduct that tax, taking into account the provisions of Paragraph 7 of this Article and according to the following conditions:</i></p> <ul style="list-style-type: none"> A. <i>The supplies related to the purchase, construction, renewal or modification of the property were received before the effective date of the exemption</i> B. <i>The input tax related to the supplies mentioned in this paragraph is deducted in the tax return submitted to the Authority, up to the maximum tax period ending on December 31, 2020</i> C. <i>The proportional deduction is used to deduct the input tax in the event that it is not possible to attribute the tax incurred in the tax invoice for a continuous supply that was partially made on, before or after the effective date of the exemption”</i>

<p>Article 51 - Proportional deduction of input tax</p>	<p>A new sub-clause c) has been added to clause 11 of Article 51 as follows:</p> <p>C. Making a real estate supply exempt from tax in accordance with the provisions of paragraph 1 (a) of Article 30 of this regulation - in an incidental and irregular manner in the natural course of a Taxable Person's taxable economic activity.</p> <p>Clause c) in the previous version of the Implementing Regulations has been numbered as d).</p>
<p>Article 63 - Article sixty-three: Correction of returns</p>	<p>Paragraph 2 has been amended as follows:</p> <p><i>"In cases where a Taxable Person becomes aware of an error or an incorrect amount in a filed Tax Return which has resulted in the amount of Tax payable to the Authority being overstated, the Taxable Person may correct that error in any tax return in a later date of discovering the error subject to paragraph 4 of this article."</i></p>
<p>Article 70 - Refund of tax to designated persons</p>	<p>Paragraph 14 has been added as follows:</p> <p><i>"According to paragraph 1 of this Article, a person who carries out an economic activity in his capacity as a licensed real estate developer - under conditions and controls specified by the Authority - may apply for registration as a person qualified to recover the tax paid by him on goods and services received in the Kingdom and related to the economic activity in accordance with the recovery rules specified in this Article and the Authority may add other rules and procedures for tax refund made by qualified persons"</i></p>
<p>Article 74 - Obligations falling due on a non-working day</p>	<p>Paragraph 2 has been amended as follow:</p> <p><i>"Where any other obligation prescribed by the Law and this Regulation - other than what is stated in paragraph 1 - which is required to be fulfilled by a Person or the Authority falls on a date that is a non-working day, such obligation will be treated as performed on that date when it is performed on the next Working Day."</i></p>

Key takeaway

Businesses engaged in the supply of real estate should consider the important changes made to the VAT Implementing Regulations in order to ensure compliance with the newly added provisions and to avail the benefit of the input VAT incurred in accordance with the prescribed timelines.

As for individuals previously registered for VAT purposes, they would need to assess the impact of this change on their registration status and avail the benefit of the VAT exemption.

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Let's Talk

For a deeper discussion of how this issue might affect your business, please contact:

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