

Saudi Arabia introduces real estate transaction tax

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Executive summary

On 2 October 2020, Royal Decree No. A/84 was published, introducing a 5% real estate transaction tax (RETT) in Saudi Arabia and exempting most supplies of real estate from value added tax (VAT). RETT Regulations and consequential amendments to the VAT Implementing Regulations have already been issued, and the new rules are effective from 4 October 2020.

RETT is generally due on the date of disposal of real estate, so anyone contemplating or engaged in a real estate transaction needs to familiarize themselves with the rules. For VAT taxable persons, if the amendment resulted in real estate being recharacterized from taxable to exempt, input credits will continue to be generally available with certain limitations (e.g., in some cases input tax can be recovered only until 31 December 2020).

Detailed discussion

RETT

A 5% RETT will apply to the value of any real estate that is disposed. Real estate includes land constructions. Disposal includes sale, netting, gift, will, barter and leasing, financial leasing and transfer of shares in real estate companies.

Certain transactions are exempt from RETT. The main exemptions are the disposal of real estate:

- ▶ For the purpose of family or charitable endowment, dividing property for inheritance purposes, and gifts between relatives up to second degree.
- ▶ By a government entity acting in its capacity as a public authority, or a government agency or legal public body for public benefit.
- ▶ Temporarily for the purpose of using it as a guarantee for financing or credit or transferring between a fund and custodian.
- ▶ As a contribution for shares, provided the shares are not disposed of within five years.
- ▶ If one of the parties is a foreign government, international organization, diplomatic or military body, or mission or a member of the diplomatic, consular or military corps accredited in Saudi Arabia, provided reciprocity applies.

Royal Order No. A/84 indicates that the State will bear the tax on real estate valued of up to SAR1m for a Saudi citizen purchasing their first home.

RETT is generally due on the date of disposal. The Implementing Regulations provide the specific tax point for different methods of disposal. The disposer (seller) is responsible for remitting RETT to the General Authority of Zakat and Tax (GAZT), but the disposer and recipient are jointly responsible if RETT is not remitted.

Late payment of RETT is subject to a 5% delay payment fine for each month or part-month when RETT remains outstanding. The penalty for tax evasion is up to three times the tax value for the disposal. Other violations of RETT rules may be subject to a SAR10,000 administrative penalty.

VAT

The VAT exemption for real estate has been extended to include the supply of real estate by way of transfer of title or the right to dispose by the owner, of residential, commercial and agricultural real estate, in addition to developed or undeveloped landscape.

An input tax deduction will be allowed on costs related to the purchase, construction, renewal or modification of the newly VAT-exempted real estate, provided the input tax deduction is claimed in a tax period ending no later than 31 December 2020. An input tax deduction will also be allowed on costs incurred relating to the supply of VAT-exempt real estate, if the supply of the real estate occurs in an irregular and occasional manner in the natural context of the person's practice of its taxable economic activity.

A person carrying on an economic activity as a licensed real estate developer may apply for registration as an eligible person, allowing that person to recover VAT incurred relating to the supply of VAT-exempt real estate. Otherwise, the special registration mechanism for real estate activity has generally been removed.

Implications

Taxpayers dealing with real estate need to consider the potential implications of the new RETT and VAT exemption rules, particularly those making supplies of residential and commercial real estate.

As the RETT and new VAT exemption rules are effective on all applicable real estate transactions from 4 October 2020, it is important for affected taxpayers to assess immediately the application of the new rules.

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