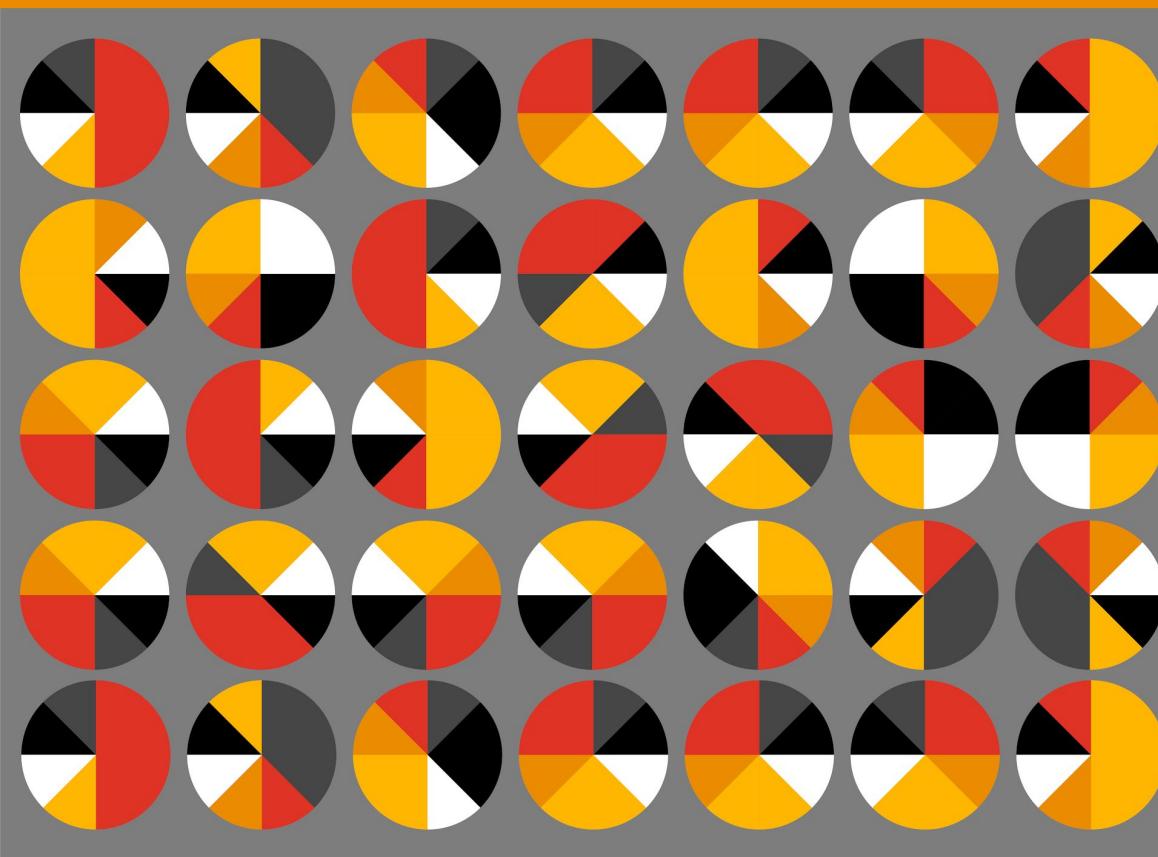


Saudi Arabia: Refund of VAT to licensed Real Estate developers

December 2020



In brief

In accordance with the directions stipulated in the Royal Order Number A/84 dated 14/2/1442 AH (corresponding to 1 October 2020), the Board of Directors of the General Authority of Zakat and Tax (“GAZT”) issued a Ministerial Resolution number 1754 dated 15/04/1442 AH (corresponding to 30 November 2020) approving the conditions and terms for considering a licensed real estate developer as qualified persons to refund input VAT incurred in relation to real estate supplies that became exempt from VAT as of 4 October 2020.

The Ministerial Resolution enters into effect from the date of issuance i.e. 30 November 2020.

In detail

In order to be eligible for the recovery of input VAT, the developer must be engaged in exempt real estate activities defined in the VAT legislation and must seek to recover input VAT related to real estate activities that have been defined as exempt supply for VAT purposes.

The Ministerial Resolution consisted of 6 articles that are summarised as follows:

1. The real estate developer must have one of the following legal forms:
 - Sole proprietorship under a commercial registry;
 - Real estate investment fund;
 - Cooperative organisation or institution; or
 - Any other legal form as listed within the Companies' Law.
2. The real estate developer's license shall be effective/valid according to the approved classification from the Ministry of Commerce (“MOC”) and special bodies responsible for legalizing any legal form listed in article one above.
Notwithstanding the above, the real estate developer shall be licensed to conduct any of the following activities:
 - Sale, purchases, development and leasing of real estates;
 - Sales and purchases of lands, real estates and sales activities or lease off plan;
 - Construction of buildings.
3. The licensed real estate developer shall be making real estate exempt supplies according to paragraph 1 (a) of article 30 of the KSA VAT Implementing Regulation. Noting that the VAT refund is limited to VAT inputs related to these exempt supplies.
4. The real estate developer must also have an approval from the Ministry of Housing (MOH) as an eligible real estate developer according to the above conditions and in accordance with criteria determined by the MOH and the respective associated organizing agencies. GAZT will ensure that the developers satisfy the required eligibility conditions and have the right to do the necessary in case such eligibility conditions are not met.
5. Persons who do not qualify to be treated as licensed real estate developers will be able to recover input VAT incurred on purchases/expenses on or after 4 October 2020 for real estate supplies that have been defined as exempt according to the Royal Order A/84 providing that all the following conditions are fulfilled:
 - Have one of the legal forms listed under article 1 of the Ministerial Resolution;
 - Satisfy all the other requirements to be a qualified as a licensed real estate developer before the 31st of January 2021; and
 - Prove that input VAT recorded in its books was incurred in relation to real estate supplies of the establishment/legal entity according to the legal forms mentioned under article 1 above.
6. The conditions listed in this Ministerial Resolution shall be reviewed and evaluated after one year from its implementation.

Key takeaway

The new Ministerial Resolution includes various provisions that should be carefully considered by taxpayers engaged in the real estate sector to comply with the requirements to be able to refund VAT incurred on real estate supplies in the manner explained in the resolution.

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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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