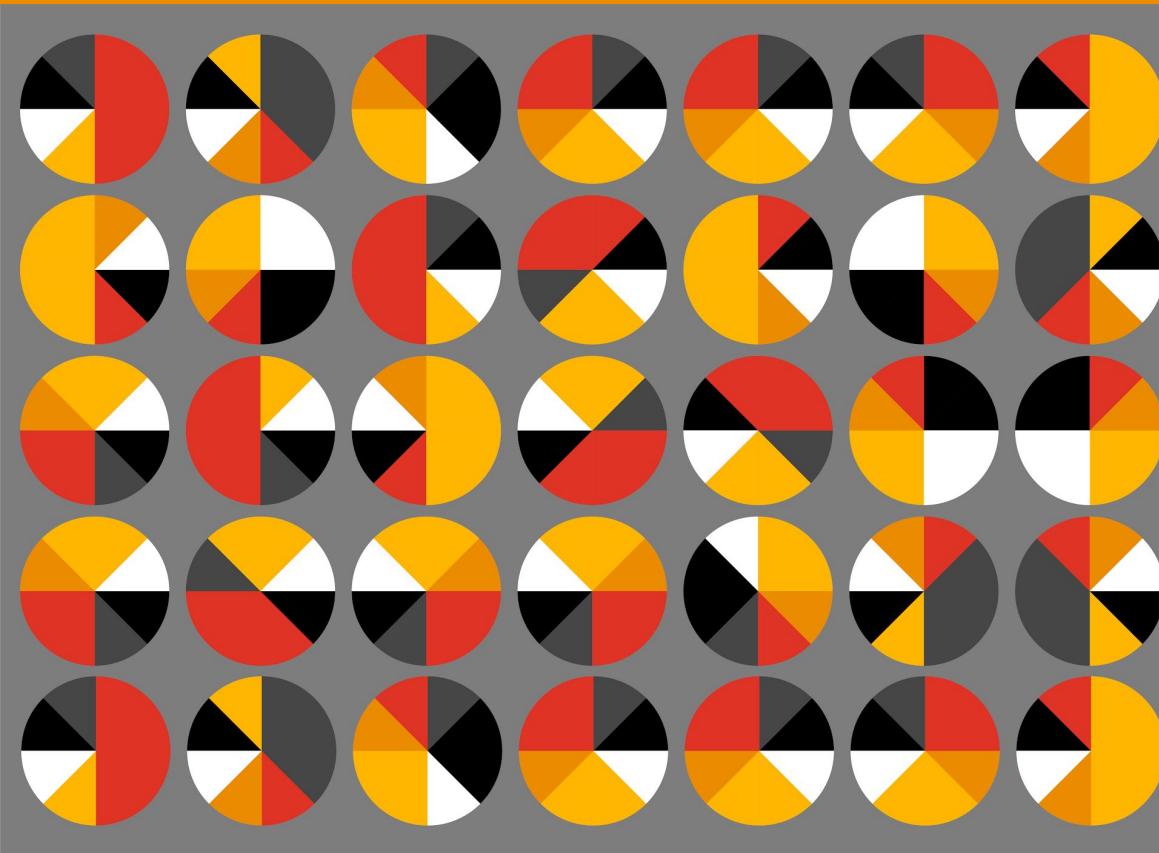


# Saudi Arabia: Updated VAT Guide for Real Estate Sector

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## In brief

The Zakat, Tax and Customs Authority ('ZATCA', formerly known as GAZT) has issued a new version [version 2.0] of the real estate guide which superseded the first version of December 2017.

The updated guide provides clarifications on the VAT and RETT treatment related to real estate activities and also explains the application of transitional provisions on exemption of real estate supplies from VAT.

The new version of the guide is issued in Arabic language and can be accessed [here](#).

## In detail

The updated guide is directed to individuals and businesses operating in the real estate sector. This includes persons buying, selling or renting residential/commercial properties or any other types of real estate properties.

The guide clarifies the tax treatment and changes taken place in the Kingdom of Saudi Arabia ("KSA") in relation to changing of the standard VAT rate (from 5% to 15%, effective from 1 July 2020), exempting real estate supplies from VAT (effective 4 October 2020) and implementing a 5% real estate transaction tax ("RETT", effective from 4 October 2020).

The updated guide illustrates the following:

1. **Definition of terms** such as 'Real Estate', 'Residential and non-residential Real Estate', 'lease of Real Estate', etc. The guide also clarified that the definition of disposal of real estate for RETT purposes may not apply similarly for VAT purposes.
2. The **VAT and RETT treatment** related to sale/lease of real estate properties are summarised in the table below:

| Nature of supply | Residential Real Estate                   | Commercial Real Estate                    |
|------------------|---|---|
| Lease            | - Exempt from VAT                         | - Subject to VAT at standard rate of 15%  |
| Sale             | - Exempt from VAT<br>- Subject to 5% RETT | - Exempt from VAT<br>- Subject to 5% RETT |

3. In cases where a lease contract is concluded or a license is granted for the same property for residential and non-residential purposes (e.g buildings in which the ground floor is occupied by commercial tenants while the upper floors have tenants who use them for residential purposes), such a supply is considered a supply a **mixture of taxable and exempt supplies**. Thus, VAT shall be calculated on the portion of supplies related to non-residential use. The guide specifies method to split the consideration for a mixed supply in case it is not clearly defined in the contract.
4. If a single consideration is charged for the building as a whole, including the residential and non-residential parts, the lessor must apportion the value of the supply in a manner that accurately reflects the value of the relevant units. The guide gives examples of the method to use for this purpose.

5. The updated guide highlights that supplies of **goods or services related to real estate** are subject to a different tax treatment. For example, services related to construction, design, maintenance or operation of a real estate are subject to VAT at standard rate of 15% provided that these services do not involve/not part of the transfer of ownership of the real estate property.
6. ZATCA clarified, in the updated guide, that real estate supplies - which are exempt from VAT after 4 October 2020, or made outside the Kingdom - should not be considered for VAT **registration** purposes.
7. For taxpayers who registered for VAT previously - on the basis of real estate taxable supplies - should deregister from VAT if they are not making other taxable supplies. For this purpose, the guide highlighted the transitional circumstances for businesses which make supplies of real estates after 4 October 2020 and their eligibility to opt for VAT **deregistration**.
8. The guide clarifies the **date of supply** of a real estate to be the earliest of the following dates:
  - The date of official transfer of the legal title of the real estate property, or
  - The date of which the buyer is granted possession of the real estate property.
9. Regarding **Ijarah and lease-to-own contracts** for real estate property whose ownership has been transferred between 1 January 2018 and 3 October 2020, VAT (at 5% or 15%) should have been fully calculated by the supplier on the date the buyer acquired the property.
10. The treatment of amounts payable with respect to VAT does not change for Ijarah contracts or lease-to-own contracts with respect to installments collected from 4 October 2020 and afterwards. It should be noted that RETT does not apply to lease contracts concluded before 4 October 2020.
11. The guide clarifies that all **contracting and construction services** performed in the Kingdom are subject to VAT at the standard rate of 15%, including the value of all works and materials which are permanently incorporated or fixed on the construction site or construction project, and any charges relating to any other movable goods that may be provided by the contractor to the customer.
12. For **Build-Operate-Transfer (BOT) contracts**, revenues collected by the supplier of those contracts as a result of operating the asset are considered consideration for taxable supplies made and therefore subject to VAT at the standard rate of 15%.
13. The guide lists the **real estate related services** (e.g. contracting services) which in nature are services that affect the area of the property or is related to a specific area of the property or a specific location of the non-movable property. The guide includes an explanation of ZATCA's interpretation of these services to enable taxpayers determining the place of supply, especially for the supplier or customer who is not resident in the Kingdom.
14. The VAT treatment related to real estate related services is defined in the guide as follows:
  - The supply of services related to real estate located in the Kingdom are always subject to VAT in the Kingdom, regardless of the country of residence of the supplier or customer.
  - On the contrary, the supply of services related to real estate and related to real estate located outside the Kingdom are not subject to VAT in the Kingdom.

15. The table below summarizes the **input VAT recoverability** related to real estate transactions:

| Nature of supply  | Input VAT recoverability   |
|---|--|
| Input VAT related to lease of commercial / non-residential real estate properties, subject to VAT.  | Fully deductible.  |
| Input VAT related to lease of residential real estate properties, exempt from VAT.  | Non-deductible.  |
| Input VAT entirety related to disposal of real estate properties, exempt from VAT, made by VAT registrant person.                         | In principle, this input VAT is not deductible unless relevant transitional provisions are applied. However, if a commercial building is disposed of as part of another taxable activity, deduction of input VAT may be possible depending on common expenses. |
| Input VAT incurred by a licensed real estate developer in relation to transactions exempt from VAT.                                       | Non-deductible, however, it can be refunded back through the licensed real estate developers refund scheme.  |
| Input VAT related to contracting services or other services, subject to VAT   | Fully deductible.  |
| Input VAT incurred on overhead expenses and other items - that cannot be directly allocated - and related to taxable and exempt supplies. | Proportional deduction (attribution).  |

16. For **input VAT proportional deduction**, the guide highlights that:
- A one-off disposal transaction (VAT exempt), which is incidental and not part of a usual economic activities, will be disregarded for the purposes of computing the input VAT deduction ratio.
  - Any licensed real estate funds who supplies real estate as part of financing products can apply for an alternative deduction method. This alternative method is the same as the default method except that the value of exempt supplies of the disposed properties is ignored for the purposes of calculating the proportional deduction ratio. Thus they do not need to apply to the authority to use this alternative method.
17. The guide clarifies the **transitional rules** for deducting of input VAT during the transitional period for real estate supplies VAT exemption (effective as of 4 October 2020).
18. The guide also provides clarification on the eligibility for **licensed real estate developers** to refund back input VAT in relation to exempt real estate activities. For this purpose, the guide illustrates the following:
- Refund mechanism for licensed real estate developers and process to submit the VAT refund claim;
  - Evidence and documents required to be submitted along with the VAT refund claim;
  - Timeline to process the refund claim.

## The Takeaway

Persons engaged with real estate supplies are encouraged to read the updated guide to ensure that the treatment being followed is in accordance with the applicable legislations for VAT and RETT.

Taxpayers should also confirm their input VAT recoverability requirements and the eligibility to refund VAT incurred on real estate supplies if deemed considered as a licensed real estate developer.

Expert opinion should be sought in case of any unclear position.

## Let's talk

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

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