

Tax Reductions for Real Estate Transactions in Saudi Arabia

January 19, 2021

From 4 October 2020, a new taxation regime applies to real estate transactions in Saudi Arabia. The new regime is set out in:

- Royal Order No. (A/84) dated 14/02/1442 (AH) – Exempting Real Estate Supplies from VAT and Levying a Tax called Real Estate Transaction Tax (the Order); and
- Ministerial Resolution No. (712) dated 15/02/1442 (AH) – Issuing the Implementing Regulations for Tax on Real Estate Disposal Transactions (the Regulations).

The key implications in respect of value added tax (VAT) for such transactions are:

- exemption from VAT which was previously levied at the rate of 15% on chargeable supplies;
- commercial rents and construction costs remain subject to VAT; and
- qualifying developers may apply for a refund of input VAT that has been paid.

The key implications of the new real estate transaction tax (the Tax) for such transactions are:

- levied at the rate of 5% of the transaction value (according to fair market value);
- payable by all individuals and organisations (including government agencies);
- applies to a wide range of transactions (including, amongst others, transfer of ownership, long lease and rent to buy);
- several types of transaction are exempt (including, amongst others, inheritance, gift to certain family members and temporary transfer for use as financial security);
- every transaction must be declared and proof of exemption or payment provided before the authorities will process the transaction;
- the disposing party should submit an application to the General Authority for Zakat and Tax (GAZT) (via the e-service page on its website);
- the disposing party must pay the Tax (however, the parties can agree between themselves whether they will share or one party will cover the cost);
- all transaction parties are jointly responsible for satisfying the requirements of the Order and Regulations; and
- if the Tax is not paid (where applicable), then penalties may be imposed.

Recommendations

The new taxation regime will reduce the cost of certain real estate transactions, making this an opportune time for benefiting transactions to proceed. Before implementing any transaction, we would recommend that tax advice be obtained (e.g. from a specialist or consultant in tax matters) in order that the exact consequences (and availability of any cost reduction) can be established in advance.

Particular attention is also required for existing transactions affected by the new regime (for example, where a party has contracted to pay (or has already paid) an amount in respect of VAT). Further regulations and guidelines are expected from the GAZT in the near future.

Please note that Dentons is a law firm and does not provide specialist tax advice in Saudi Arabia. We can work with you and (as required) your tax and other specialist advisers to help implement your real estate transactions in Saudi Arabia.

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