

VAT alert | Amendments to VAT implementing regulations

18 June 2020 | Kingdom of Saudi Arabia



In decision 20-3-20, dated 20 June 2020 and effective from the date of publication in the Official Gazette, the board of the General Authority of Zakat and Tax (GAZT) has amended five articles and added 13 paragraphs to the Saudi VAT implementing regulations (KSA VAT IRs). **New paragraphs and amended articles are shown in dark grey.**

Article 6 | Mandatory registration - other provisions

New paragraph 5

The value of a Supply of Capital Assets shall be excluded from the total value of annual Taxable Supplies, provided that the capital asset is used to operate and enhance the continuity of the economic activity undertaken by the Person in accordance with his commercial register or any other similar license issued by the competent authority, and that the capital asset has not been maintained for the purpose of generating rental income or any similar income or to be supplied at a later date.

This exception is not applicable to natural Persons registered in accordance with the special registration mechanism related to Persons carrying out a real estate activity in accordance with the provisions of Article (9) of these Regulations.

Article 9 | Registration provisions applying to specific circumstances

Previous version:

A Person who supplies or intends to Supply real estate will be presumed to carry on an economic activity for the purpose of registration under the Law and these Regulations, except in cases where prior to the Supply the real estate was used or was intended for use as a permanent dwelling by the Person, or by a Person who is related to such Person within the meaning of the second paragraph of article 37 of these Regulations.

Amended paragraph 7:

A Person who supplies or expects to Supply real estate is considered to be engaged in carrying out an economic activity for the purposes of registration under the Law and these Regulations, except in the following cases:

- a. if a natural Person supplies Residential Real Estate property that was not used for Consideration during the entire twelve months preceding the Supply, and its use during that period was limited to a place of residence by that Person, his spouse, or a relative to the second degree for a period not less than (183) consecutive or non-consecutive days;
- b. transfer of real estate property without Consideration by the competent authority in cases of estate distribution or for a similar legal requirement;
- c. transfer of property without Consideration by the competent authority for the purpose of endowing it or assigning it to a licensed charitable body, or to an entity of public benefit whose systems permit such practice, or to execute an authenticated legal will;
- d. transferring the ownership of property without consideration as a gift which is legally documented with the competent authority for his spouse or a relative to the second degree;
- e. transferring the ownership of property by a government body in its capacity as a public authority in accordance with the provisions of Paragraph (5) of this article; and



- f. and any other exceptional cases as identified by the board of directors;

For the purposes of applying the provisions of this article, the Person must have not previously deducted Input Tax incurred when buying or constructing the property being supplied.

Article 9 | Registration provisions applying to specific circumstances

New paragraph 8

- a. Without prejudice to any other provisions included in these Regulations, the Authority shall specify a special mechanism for the purpose of registering Persons carrying out a real estate economic activity "special registration mechanism" through which the Person or Persons making real estate Supplies will be registered.
- b. The special registration mechanism is mainly applicable to natural Persons who make a Supply of real estate that is not linked to a commercial register or any other similar license issued by a competent authority, or to other Persons, in accordance with the decision issued by the board of directors for this purpose.
- c. In cases where several persons own the property being supplied, the Authority may register each of them based on the total value of that property. The Authority has the right to specify the value of supplies attributable to each Person in the case of absence of information through the title deed or from any other source.

The Authority shall establish special rules governing the registration, administration, evaluation, and collection of Tax due from Persons registered in accordance with this mechanism including the procedures of registration, de-registration, notifications, effective registration date, status of registration, tax period, method for submitting the Tax Returns and dealings with other related parties, in addition to any other procedures deemed appropriate by the Authority.

Article 13 | De-registration

Previous version:

In cases where the Taxable Person does not apply for de-registration to the Authority, the Authority may de-register that Person. In these cases, the Authority will issue a notification.

Amended paragraph 5:

- a. Where a taxable person who is registered with GAZT does not apply to de-register in accordance with the provisions of paragraphs 1, 2 and 3 of this article, GAZT will de-register that person. Their de-registration is effective from the date on which they no longer qualify for registration or any other date specified by GAZT.
- b. Where GAZT determines that a registered person does not qualify for registration, it can de-register them from any date it specifies.
- c. GAZT can at any time de-register a taxable person who has been registered under the special registration mechanism set out in article 9 of these regulations where it determines that the person is no longer obligated to register, provided GAZT issues a notification prior to de-registering them.



If the person does not notify GAZT within 20 days that they do not wish to de-register, the de-registration is deemed to have been accepted.

In all cases set out in this paragraph, GAZT shall notify the taxable person of the effective date of de-registration.

Article 13 | De-registration

Previous version:

A Taxable Person may not apply to de-register in accordance with this article in cases where it has been registered for less than twelve months.

Amended paragraph 8:

A Taxable Person registered with the Authority who has applied for voluntary registration in accordance with Article (7) of these Regulations and whose period of registration has not exceeded twelve months and has ceased to carry on his economic activity may not apply for de-registration. This does not affect the Authority's right to de-register that Taxable Person as stipulated in the paragraph (5) of this article.

Article 14 | Taxable supplies in the Kingdom of Saudi Arabia

Previous version:

Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is imposed on all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person, or received in the Kingdom by a Taxable Person in instances where the Reverse Charge Mechanism applies, as well as on Imports of Goods.

Amended version:

Without prejudice to the second article of the Law, and for the purposes of applying the Agreement and the Law in the Kingdom, Tax is imposed on all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person in the course of carrying on an Economic Activity, or received in the Kingdom by a Taxable Person in the course of carrying on an Economic Activity, in instances where the Reverse Charge Mechanism applies, as well as on Imports of Goods.

Article 15 | Nominal supplies

New paragraph 9

A Supply of Goods or services without Consideration shall not be treated as a Nominal Supply in cases where the Taxable Person has incurred expenses directly in relation to the purchase, production or Supply of the Goods or services and has not deducted the Input Tax through his periodic returns.

Article 20 | Date of supply in specific circumstances

New paragraph 6

The date of Supply of the Real Estate where the ownership is transferred by the competent authority in accordance with the procedures for the special registration mechanism set out in Article 9 of these Regulations, is the date of completion of the procedures for transferring ownership of the property by the competent authority



Article 39 | Value of specific taxable supplies – nominal supplies

Previous version:

If a Supply of Goods or services is treated as a Nominal Supply by reason of its having been made without Consideration, or used for a purpose other than for Taxable Economic Activity, the value of that Supply is the purchase price or cost of the Goods or services to the Supplier. No Nominal Supply shall be treated as made if Input Tax was not deducted on the Supply to the Supplier. In cases where the purchase price or cost cannot be ascertained at the time of the Supply, the value of such Supply is the Fair Market Value.

Amended paragraph 1:

If a Supply of Goods or services is treated as a Nominal Supply by reason of its having been made without Consideration, or used for a purpose other than for Taxable Economic Activity, or a change in the usage of the Goods occurs for the purpose of making non-taxable supplies, the value of that Supply is the purchase price or cost of the Goods or services to the Supplier.

In cases where the purchase price or cost cannot be ascertained at the time of the Supply, or in cases where a capital asset which had been used in the Economic activity is supplied, the value of such Supply is the Fair Market Value.

Article 53 | Tax invoices

New paragraph 10

- a. A person who makes a taxable supply of real estate according to the special registration mechanism provided for in article 9 of these regulations may authorise GAZT or a body approved by GAZT to issue a tax invoice on their behalf in relation to that supply.

- a. Tax invoices issued in accordance with this paragraph are based on the competent authority's understanding of the entire value of the actual supply and must be submitted within fifteen days of the end of month following the month in which the transfer took place.

Article 58 | Tax period

New paragraph 8

The Authority may specify a different Tax period for the registered Taxable Person in accordance with the special registration mechanism. The Authority shall notify that person of his tax period and its effective date.

Article 59 | Payment of tax

New paragraph 9

The Taxable Person who is registered with the Authority in accordance with the special registration mechanism provided for in Article 9 of these Regulations may make an advance payment to the Authority equal to the amount of Tax that will be due at the time of transferring the ownership of the real estate subject to Tax, while taking into account the following:

- a. The amount is calculated based on the value of the property disclosed to the Authority before the transfer of ownership takes place through the mechanism determined by the Authority.
- b. The amount is paid by the Taxable Person or his authorized person.



- c. The Authority shall keep any amounts paid in advance in accordance with this paragraph and will use them to settle the Tax that will be due on the Supply of real estate whose ownership is transferred through the special registration mechanism, and which must be reported to the Authority by the Taxable Person through the Tax return relating to the period in which the Supply took place.
 - d. In cases where the property being supplied is owned by several persons, the Authority may determine the value attributable to each person where information relating to each person's share within the title deed or any other sources is unavailable.
 - e. In the event the procedures for transferring the ownership of the property by the competent authority are not completed or in case the value of the supply is reduced to a lesser value prior to completing the procedures for transferring the ownership, the Authority will refund the excess of the advance amount to the person who paid it, as prescribed by the procedures issued by the Authority relating to refunds of advance amounts paid in accordance with the special registration mechanism.
- b. The Taxable Person registered under the special registration mechanism is responsible for the accuracy of the information on the Supplies of real estate completed on his behalf, and to report the Tax due on any other Taxable Supplies made.
 - c. The Authority or the third party referred to in this paragraph may submit the Tax return that was pre-populated on behalf of the Taxable Person if the Taxable Person does not submit it by the stipulated deadline.

Article 79 | Transitional provisions

New paragraph 10

For the purposes of applying the provisions mentioned in Paragraph (2) of Article (2) of the Law, the amended standard VAT rate is applied according to the following:

- a. If an invoice is issued or Consideration for the Good or the service is paid before 1 July 2020 and the Supply is made after this date, the Tax is calculated on the date the Goods or services are supplied without regard to the date the invoice was issued or Consideration was paid except for Supplies for which tax invoices were issued before 11 May 2020 and within the limits of the value on the invoice, provided that the Supply actually takes place before the end of 30 June 2021. In cases where a difference in the calculated Tax apply to the Supply, the supplier must issue an additional invoice with the difference in Tax due, unless that Tax is included in the invoice that was issued before the amendment's effective date.

Article 62 | Tax returns

New paragraph 3

- a. The Authority may determine special procedures for submitting a Tax return for Taxable Persons registered under the special registration mechanism, and the Authority or an approved third party may pre-populate the Tax return based on the information relating to the Supplies of real estate whose ownership has been transferred by the competent authority in accordance with the Taxable Person's authorization for this.



Contact us:



Ali Almohammedali
Senior Director
ali.almohammedali@keypoint.com
+966 54 541 8183



Mubeen Khadir
Senior Director
mubeen.khadir@keypoint.com
+966 55 774 2366



Raman Ohri
Senior Manager
raman.ohri@keypoint.com
+966 50 286 4266



Omar Hisham
Senior Manager
omar.hisham@keypoint.com
+973 3833 8640



Mark Gamble
Senior Manager
mark.gamble@keypoint.com
+973 3833 8641

- b. In relation to continuous Supplies that are partially provided before 1 July 2020, and partially after that date, the amended Tax rate will apply to the part that is provided after the amendment's effective date, except for continuous Supplies for which tax invoices were issued before 11 May 2020 and within the limits of the value on the invoice, provided that the Supply actually takes place before the end of 30 June 2021, and the supplier may also calculate the Tax at the amended rate on the entire value of the Supply upon the customer's approval.
- c. The supplier may treat any Taxable Supply of Goods or services relating to a contract entered into before 11 May 2020 as a Supply that is subject to the standard rate of Tax before the amendment, and may apply this to all Supplies made under that contract until the earlier of the time the contract expires, is renewed or 30 June 2021, provided that both the supplier and the customer are registered as Taxable Persons in the Tax system, and that the customer is entitled to deduct Input Tax in respect of the Supply of Goods or services under the contract in full.
- d. The supplier may treat any Taxable Supply of Goods or services relating to a contract that was entered into or awarded by a government body before 11 May 2020 as a Supply that is subject to the standard rate of Tax before the amendment, and may apply this to all Supplies made under that contract until the earlier of the time the contract expires, is renewed or 30 June 2021.

Important note

The information in this document is based on translations of the VAT legislation of the Kingdom of Saudi Arabia, the GCC VAT framework and general VAT principles. **It is provided for information purposes only.** Any omissions or errors are inadvertent. This document should not be relied upon in making any decisions. You should seek appropriate professional advice from a tax advisor before making any decision relating to your particular circumstances.