

VAT refunds under the Licensed Real Estate Developer Scheme in KSA

Key considerations for land and property development companies

Real Estate Transaction Tax (RETT) was introduced in the Kingdom of Saudi Arabia (KSA) with effect from 4 October 2020 on supplies of land and property (including sales, assignments, transfers, and similar activities), subject to some exceptions. The applicable rate is 5% of the value of the land and property (and rights thereto).

Value Added Tax (VAT), in general, is no longer applicable to the sale and disposal of property, except in certain circumstances where both VAT and RETT can apply on the same transaction. Instead, the real estate supply will be treated as VAT exempt wherein related tax credits cannot be recovered through the VAT return.

A scheme known as the Licensed Real Estate Developer Scheme (LD) has been introduced allowing land and property development companies to recover input VAT on their expenses. Rules and conditions around the qualification as a LD have been issued by the Zakat, Tax and Customs Authority (ZATCA). In a recent legislative update, the ZATCA released a set of rules and procedures in relation to the VAT refunds under the LD Scheme. The below list highlights some of the key considerations that businesses who wish to pursue the LD journey should consider.

Eligible person designation

- Entities that fulfill the requirement of the LD Scheme and have been duly issued with the LD certification from the Ministry of Housing (MoH) must separately apply to the ZATCA for designation as an eligible person for VAT refunds.

Review and approval process

- The ZATCA will review and approve/reject the application. Applicants who are not successful may reapply after meeting the conditions.

Admissibility of refund claim | Cut-off date

- Persons who have their eligibility status approved by the ZATCA have the right to seek a refund on VAT paid on supplies of goods or services related to real estate supplies from the date of submitting the registration request to the Authority. This rule sets a cut-off date, disallowing a retroactive claim of VAT refunds to some extent. In some exceptional cases, the ZATCA may allow retroactive claims.

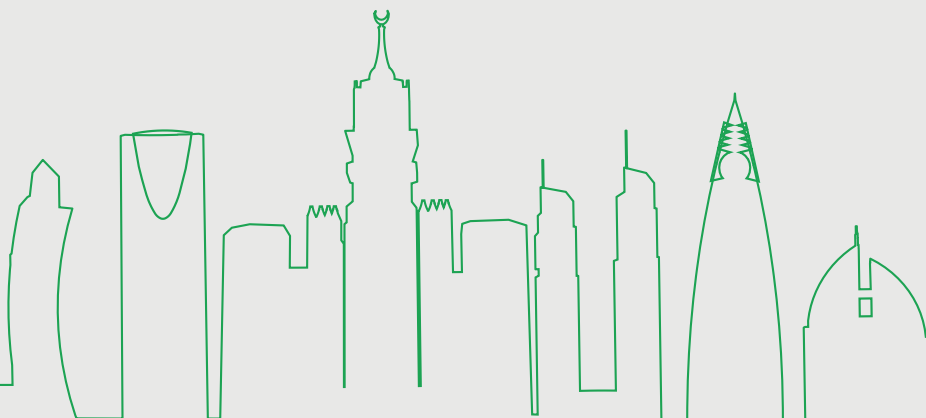
Documentation and compliance

- The ZATCA clarified the type of information and documentation that must be disclosed in order to avail to the refund under various real estate disposal scenarios. Here, the ZATCA also clarified that refunds shall only be allowed to the extent of the portion of the invoice that has been settled. This may have a cash flow impact and businesses should consider these requirements in light of their existing tax compliance processes and whether changes are needed.

Refund cycles

- Refund applications may be submitted on a monthly, quarterly, or annual basis. When choosing a refund cycle, businesses should consider striking a fair balance between their cash flow needs and the LD refund compliance process.

The introduction of RETT marks a key milestone in the taxation of the real estate sector in the Kingdom, although this development is happening in the absence of a primary RETT law. The RETT law is being drafted, therefore certain changes may and/or will change once the law is formally implemented in the Kingdom, thus making RETT a key issue that businesses should incorporate into their change management programs from a tax point of view.



How can Deloitte help?

Deloitte has a dedicated team of RETT experts within its Indirect Tax practice. They have successfully assisted a number of businesses to apply for and obtain the LD certification from the MoH, as well as the eligible person status from the ZATCA. The status followed by the application for refund of the accumulated input VAT would help to optimize these businesses from both a cash flow and tax compliance perspective.

Given the relative novelty of this initiative, the process typically requires continuous expert liaising with the MoH and ZATCA.

Apart from the above, they also support businesses in the Kingdom through a series of service offerings as listed below:

- RETT health check assessment to help identify gaps and mitigate risks
- Acquisition/merger and restructuring projects where real estate forms part of the targets
- Bespoke RETT advisory services on key real estate contractual arrangements and business models including Build Own Operate Transfer Contracts (BOOTs), Build Operate Transfer (BOTs), etc.
- RETT compliance services
- Refunds under the LD scheme

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