

VAT treatment - Supply of Commercial Real Estate

Real Estate is an enigmatic industry worldwide which witnesses various types of complex transactions. Tax implication is one of the important factors that is taken into account before undertaking any Real Estate transaction.

Below is gist of tax implications on Supply of commercial Real Estate located in UAE from UAE VAT Laws perspective.

A commercial Real Estate has been defined under UAE VAT Law as any land or building, which is not:

- A residential building;
- Intended for use by a charity for a relevant charitable activity; or
- A bare land.

As per the UAE VAT Law, supply (sale/lease) of a commercial Real Estate is a Standard Rated transaction subject to VAT at 5%.

Discussed below are certain possible commercial Real Estate transaction scenarios and the respective tax impact with reference to UAE VAT Laws:

S. No.	Scenario	VAT Rate	Supplier's Obligations	Receiver's Obligations	Mode of VAT Payment and reporting in VAT Return
1	Lease of a commercial Real Estate by anyone	5%	<ul style="list-style-type: none"> • Issue a Tax Invoice; • Deposit the amount of VAT collected from Receiver with Federal Tax Authority ('FTA'). 	<ul style="list-style-type: none"> • Disburse amount of VAT to Supplier; • Recover Input Tax against VAT paid to Supplier, subject to conditions. 	<p><u>Supplier</u> Report Output VAT under Box 1 of VAT Return and pay Tax accordingly;</p> <p><u>Receiver</u> Recover VAT paid as Input Tax under Box 9 of VAT Return.</p>
2	Transaction of sale of commercial Real Estate with the benefit of existing tenants to a buyer who is a taxable person, which qualifies as the transfer of an ongoing business	Out of Scope	<ul style="list-style-type: none"> • Relevant documents to be maintained for a period of 15 years; • Proof of the supply as "transfer of ongoing business" to be maintained; • A declaration may be obtained from the recipient specifying that the supply qualifies as "transfer of business." 	<ul style="list-style-type: none"> • Relevant documents to be maintained for a period of 15 years; • Proof of the supply as "transfer of business" to be maintained. 	Not Applicable
3	Sale of Commercial Real Estate by Developer	5%	<ul style="list-style-type: none"> • Issue a Tax Invoice; • Deposit the amount of VAT collected from Receiver with FTA. 	<ul style="list-style-type: none"> • Disburse amount of VAT to Supplier; • Recover Input Tax against VAT paid to Supplier, subject to conditions. 	<p><u>Supplier</u> Report Output VAT under Box 1 of VAT Return and pay Tax accordingly;</p> <p><u>Receiver</u> Recover VAT paid as Input Tax under Box 9 of VAT Return.</p>

4	Sale of Commercial Real Estate by anyone other than Developer*	5%	<ul style="list-style-type: none"> • Issue a Tax Invoice. • Not to collect the VAT amount from the buyer. 	<ul style="list-style-type: none"> • Sign up to create an e-service account with FTA; • Pay VAT directly to FTA; • Alternatively, subject to availability in the specific Emirate, VAT may be paid via a bank nominated by FTA; • Retain proof of such VAT payment e.g. Payment Transaction Number; • Produce the abovementioned proof of payment to Land Department to process the ownership transfer; • Recover VAT paid to FTA as Input Tax, subject to conditions. 	<p><u>Supplier</u></p> <ul style="list-style-type: none"> • Report as Output VAT under Box 1 of VAT Return; and • Include the value of the Output Tax in the adjustment column of the return. <p><u>Receiver</u></p> <ul style="list-style-type: none"> • Recover VAT paid as Input Tax under Box 9 of VAT Return, if receiver is Registered.
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*Please refer VAT Guide on “VAT Payment for Commercial Property Buyers Guide” uploaded on FTA’s official portal to understand the detailed process to make VAT payment. The same can be found under the header “VAT Guides” at below mentioned link:

<https://tax.gov.ae/en/vat/guides-listing>

Contacts

You may email us or can contact any of our team members relating to your queries on this subject:

Stany Pereira

Managing Partner

stany@pkfuae.com

Sarika Dhameja

Director – Tax Services

sdhameja@pkfuae.com

Mradul Gupta

Manager

mgupta@pkfuae.com

Harsha Jain

Assistant Manager

hjain@pkfuae.com

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