

**Real Estate Transaction Tax Implementing Regulations**

**Article (1):**

Unless the context otherwise requires, the following words and phrases –wherever stated herein- shall have the meaning ascribed thereto below:

“Regulations”: Real Estate Transaction Tax Implementing Regulations.

“Ministry”: The Ministry of Finance (MoF)

“Minister”: the Minister of Finance.

“Authority”: the General Authority of Zakat and Tax.

“Governor”: the Governor of General Authority of Zakat and Tax.

“Real Estate Transaction”: Any legal transaction transfers the ownership or possession of the real estate for the purpose of ownership thereof, or possession of its benefit, including without limitation to the contracts transferring the beneficial rights or long-term lease rights. It includes sale, compensation, donation, bequest, swap, Ijarah, finance lease, and transfer of shares in real estate companies, or usufruct right determination for a period of more than 50 years.

“Authentication”: A set of procedures ensuring that right is reliably established, per the authentication law and regulations thereof. Any contract, agreement or a wavier by which the transaction is executed shall be deemed as authentication for tax purpose, when official authentication procedure is not applied.

“Unofficial Documents”: The documents through which transactions outside the scope of statutory official authentication are proved.

**Article (2):**

A tax at a rate of 5% (five percent) of the total value of real estate transaction value shall be imposed, regardless its condition, appearance or use at the time of transaction. It shall include the land and establishments, constructions or building thereon, whether the transaction was conducted in the same condition, or after establishing facilities thereon, whether this transaction includes the whole or part of the real estate, or is partitioned, common, residential units, or other kinds of real estates and whether this transaction was authenticated or not.

**Article (3):**

A. The following cases shall be excluded, in full or part, from the RETT application scope:

1. Transfer of the real estate property in cases of division or distribution of the inheritance.
2. Gifting of real estate property to offspring "family" or charitable endowment or to a licensed charitable organization if the endowment is proved, excluding disposals made for management purposes.

3. Transfer of real estate property to a government entity, public legal persons or entities, as well as projects/ entities of public benefit. For the purposes of this Paragraph, public benefit shall mean the entities and organizations of public benefit in accordance with Law of Civil Society Associations and Organizations.
4. Disposal of real estate property by a government entity, in its capacity as a public authority, outside the scope of economic, investment or commercial activity.
5. Compulsory disposal of real estate property (e.g. expropriation of ownership for public benefit or temporary adverse possession of real estate).
6. Transfer of testator's real estate property as a gift to a spouse or relative up to the second degree of affinity, or under a registered will not exceeding a quarter of the estate.
7. Temporary transfer of real estate property to be used as a financial or credit guarantee, unless the mortgage is subject to an executive seizure, by permanently transferring the ownership of the same to the taxpayer or third parties.
8. Transfer of the real estate property under a financial lease or 'Tjarah' contract prior to the effective date hereof.
9. Temporary transfer of real estate property between a fund and its custodian, the custodian and the fund, or the custodians of the same fund in accordance with the Capital Market Law, and the relevant regulations and instructions.
10. Disposal of the real estate property as an in-kind contribution, by any person, in the capital of joint stock, provided that the corresponding shares or contributions may not be disposed of for five years.
11. Disposal of real estate property if either party to transaction is a foreign government, an international organization, agency, a diplomatic or military mission or a member of the diplomatic or consular corps or military personnel accredited in the Kingdom, conditional upon reciprocity.
12. A real estate supply that was subject to VAT prior to registration if registered after the effective date of RETT, provided that no change shall be made to the parties of the transaction or the value and terms of the contract subject to VAT.
13. Any other cases as may be determined by the Minister.

B. The transaction shall be subjected to tax only once, when the unit of the parties to the transaction, real estate and the value is achieved. The Authority is entitled to determine the forms and cases to which this paragraph applies as the case may be.

#### **Article (4):**

The RETT shall be due on date of transaction based on the value agreed upon between Parties thereof, or the value of the real estate, provided that RETT may not be less than the fair market value on the date of the transaction. In addition, the value of the real estate, for purposes of calculating the RETT, may not include the value of implicit profit margin in cases of financing by statutory licensed entities. RETT shall be imposed on real estate transaction, including completed or under construction real estate or on the map. Furthermore, the RETT due shall be paid in accordance with the following:

A. The date of paying the due RETT shall be on or before the date of authentication of the transaction. The date of paying the RETT shall be, for example, but not limited to the following:

| S | Type of transaction  | Due date   |
|---|--|--|
| 1 | Sale of a real estate authenticated by the notary or by statutory accredited notary.               | RETT shall be paid on or before the date of authentication   |
| 2 | Authentication of non-exempted real estate gift  | RETT shall be paid on or before the date of authentication   |
| 3 | Ijara-to-own contracts and Finance Lease Contract  | RETT shall be paid on or before the date of authentication   |
| 4 | Long-term beneficiary rights   | RETT shall be paid on or before the date of authentication   |
| 5 | Authentication of real estate sale in auction, whether the sale is commercial or forced execution. | RETT shall be paid on or before the date of authentication   |
| 6 | Assignment of beneficiary rights whether Ijara-to-own, or long term.                               | RETT shall be paid on or before the date of authentication. The signature of the contract of waiver shall be deemed as an Authentication if the authentication procedure is not applied.                 |
| 7 | Sale on the map  | RETT shall be paid on or before the date of authentication. The signature of the contract or the agreement of sale shall be deemed as an authentication, if the authentication procedure is not applied. |

B. RETT shall be paid in cases that are not covered by the official authentication procedure with the competent administrative authority or the accredited notary – **the transaction proven by unofficial documents** – within 30 thirty calendar days from the date of the contract or the final agreement of the act of transaction. The delay penalty of payment shall be imposed upon exceeding this period. The date of the transaction may be proven by all means and evidence indicating it.

C. For the purposes of implementing the provisions of these Regulations, the Authority is entitled to rely on fictitious or hidden transactions in order to achieve the requirements of fair RETT collection.

D. The Governor may suggest any amendments to the cases described in Paragraph “A” of this Article and suggest any exceptions under Paragraph “13” of Article “3” of these Regulations. Such suggestions shall be approved only by a resolution of the Minister.

#### Article (5):

RETT shall be collected as follows:

1. The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom.
2. The parties may agree upon otherwise provisions contrary to those set forth in Paragraph (1) of this Article; nevertheless, the owner shall remain responsible for payment before the Authority.

3. Without prejudice to the provisions set forth in Paragraphs (2 and 1) of this Article, the owner and the party disposed to shall be jointly liable for any tax obligations due in accordance herewith, and the Authority shall be entitled to recourse against them jointly or severally, as the case may be.

#### **Article (6):**

For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to:

1. Verify the value of the real estate property or the real estate transactions; and
2. Estimate values of the real estate and transactions of indeterminate value, for those the value thereof stated in the contract is found to be below the market value, or for those incorrect information or data is provided.

#### **Article (7):**

The guardian, custodian, trustee, agent, caretaker, liquidator, receiver, bankruptcy trustee, the General Commission for the Guardianship of Trust Funds for Minors and their Counterparts, and the General Authority for Awqaf shall comply with the provisions hereof when acting on behalf of a third party.

#### **Article (8):**

Without prejudice to any more severe penalty provided for in any other law, the following penalties shall be applied to the violators of the provisions hereof:

- A. A person commits violations that are deemed RETT evasion, which are described in Article (9) hereof, shall liable to a fine not less than the value of RETT due and not more than threefold.
- B. A person who violates any of the provisions hereof shall be liable to a fine not less than ten thousand Saudi riyals (SAR 10,000) and not more than the value of the RETT due.
- C. A person who does not pay the RETT due within the period specified by law shall be liable to a fine of (5%) of the value of the unpaid RETT for each month or a part thereof. The Minister of Finance shall be entitled to exempt from or reduce such penalties pursuant to rules determined thereby.

#### **Article (9):**

Any of the following shall be deemed tax evasion, **unless the violator proves otherwise**:

1. Providing incorrect data on the value of the real estate transaction that results in non-payment of the full or part of the due tax;
2. Using deception, arrangement or any other means that results in non-payment of the full or part of the due tax;
3. Any other procedure or action that results in non-payment of the full or part of the due tax;
4. A person who assists or engages with the violator in evading payment of the tax shall be subject to the same penalties set out in this Article.

The employees determined by a decision of the Governor shall oversee, inspect and detect violations of the provisions hereof. The same shall have all the powers necessary to perform their functions in order to detect the acts violating the provisions hereof. The penalty shall be executed by a decision of the Governor or his authorized representative.

#### **Article (10):**

With respect to the tax information and the right to request any information for the purposes hereof, the Authority, its employees and any other parties shall comply with the following provisions:

1. The Authority's employees shall comply with the provisions concerning confidentiality of tax information for the application of RETT in a manner similar to their obligations under the provisions and regulations of other tax laws.
2. The Authority may coordinate with government entities in all matters relating to the implementation hereof. All persons shall provide the Authority with any information may be requested thereby for the purposes of establishing their tax obligations. The Authority shall be also entitled to request any information relevant to RETT that is retained by a third party, regardless of being a government entity, a financial institution or a supervisory authority.

#### **Article (11):**

The Governor shall issue the decisions, rules and procedures necessary for implementation hereof, including, but not limited to:

1. Procedures for the tax assessment and for notifying the taxpayer of the decision outcomes and the payment mechanism;
2. Rules for keeping documents and records that shall be kept for RETT purposes, the legal periods required for keeping, and the means used therefor;
3. Procedures for refund of the overpaid tax and any rules concerning the refund and payment of the tax in installments; and
4. Forms, notices and electronic means necessary for implementation of any obligations or procedures relating to the provisions of RETT.

#### **Article (12):**

For the purposes of RETT collection, the following provisions shall be applied:

1. If the amounts due hereunder are not paid, the Authority may notify the debtor that such amounts shall be paid within thirty (30) business days from the date of the notification, regardless of being made through electronic means or any other legal means. If the debtor does not pay the said dues, it shall be warned for the final time to pay within fifteen (15) business days. If such period lapses and the dues are not paid, the debtor funds shall be seized in proportion to the dues claimed by a request submitted to the competent judicial authority.
2. The Saudi Central Bank (SAMA) shall be provided with a copy of the seizure notice, and the seizure shall be made by addressing all government entities as the Authority deems appropriate in

order to seize the assets, movables and immovables of a person this procedure applies to. The Authority may, at its discretion, accept the sale of any assets of the distrainee for settlement of the dues.

3. Any person, including banks and financial institutions, shall prevent any withdrawal or payment from the account of the distrainee after receiving the notice of seizure by the Authority, excluding personal and necessary expenses prescribed by law.

#### **Article (13):**

A person for whom a decision has been issued by the Authority may object to the decision in accordance with the rules of Tax Violations and Disputes Resolution Committees.

#### **Article (14):**

The Authority shall form a committee under a decision by the Minister. The said committee shall be headed by the Governor, and shall review and evaluate all the legal and technical requirements necessary to implement the provisions of RETT and its Implementing Regulations. To that end, the Committee may:

1. Propose the recommendations necessary for cases that require taking a legal action which may arise from the implementation of RETT and its Implementing Regulations;
2. Request from the Minister to issue the necessary executive resolutions and publish the same in accordance with the law;
3. Coordinate with government and non-governmental entities for the effective implementation of the tax;
4. Set criteria of proportionality between the violation and the penalty for the actions and practices violating Paragraph (B) of Article (8) hereof;
5. Set the rules for exemption from and reduction of the penalty provided for in Paragraph (C) of Article (8) hereof;
6. Perform any other functions as may be assigned thereto by the Minister.

#### **Article (15):**

These Regulations shall be published in the Official Gazette and become effective as of 17/02/1442H, corresponding to 04/10/2020G.