

# Client Alert

Real Estate

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## ZATCA Amends the Real Estate Transactions Tax (“RETT”) Implementing Regulations

On May 3, 2024, the Zakat, Tax and Customs Authority (“**ZATCA**”) issued amendments to the Real Estate Transaction Tax (“**RETT**”) Implementing Regulations. The RETT Implementing Regulations were first introduced on October 4, 2020.

RETT is imposed at a rate of 5% on the transfer of ownership of real estate through sale, bequest, trade-off, lease, lease-to-own, Murabaha, or assignment of such property, with some exceptions provided for in the RETT Implementing Regulations. The RETT is calculated based on the price agreed upon between the seller and the buyer of the real estate property, provided that the price cannot be less than the fair market value of the property at the time of transfer. The seller is obligated to pay the RETT before or during the transfer of the real estate.

### We highlight key amendments below:

- **Ownership Exemption:** The transfer of ownership of a property from an individual to a company in which this individual is a shareholder is exempt from the application of RETT if:
  - i. such property is registered in the company's assets before the effective date of the RETT Regulations (i.e., 4 October 2020); and
  - ii. such individual submits audited financial statements or approved certificates from a licensed public accountant evidencing that the property subject to RETT was recognized as a company asset prior to 4 October 2020 and until the day of conveyance.

The disposing individual must register the transaction with ZATCA prior to the transfer to obtain an exemption from the application of RETT.

- **In-Kind Contribution Exemption:** The disposal of property as in-kind contribution to a real estate investment fund is exempt from the application of RETT, subject to the following conditions:



- i. units received in the real estate investment fund in exchange for the in-kind contribution are not disposed of until the termination or liquidation of the real estate investment fund; or
- ii. until five years have lapsed since acquiring the units in the real estate investment fund, whichever is earlier.

The contributing unitholder must register the transaction with ZATCA prior to disposing of the property as in-kind contribution to obtain an exemption.

We note that the RETT Implementing Regulations clarify that a reduction in the ownership percentage due to a public offering of a company's shares or units in an investment fund in accordance with the laws and regulations of the Capital Market Authority does not constitute a disposal of the real estate property in violation of the RETT exemption conditions.

- **Build, Own, Operate and Transfer (“BOOT”) Projects:** The due date for a RETT liability resulting from a BOOT transaction is the date of transfer of ownership or actual possession of the BOOT project by the transferee. The RETT must be paid within 30 days from the date of transfer of ownership or actual transfer of property.

These amendments aim to encourage real estate activity in Saudi Arabia and the offering of shares/ units in the public market. Real estate developers and investment fund managers will be in a favorable position to take advantage of different ownership structures in light of the recent clarifications introduced in the amended RETT Implementing Regulations.

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