



Frequently Asked Questions – Real Estate

➤ **What is real estate?**

Real estate includes:

- a. Any area of land over which rights or interests or services can be created
- b. Any building, structure or engineering work permanently attached to the land
- c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to a building, structure or engineering work.

➤ **Which are the services directly connected with real estate?**

- a. The grant, assignment or surrender of any interest in or right over real estate
- b. The grant, assignment or surrender of a personal right to be granted any interest in or right over real estate
- c. The grant, assignment or surrender of a licence or similar document to occupy land or any other contractual right exercisable over or in relation to real estate, including the provision, lease and rental of sleeping accommodation in a hotel
- d. Supply of services by a real estate expert or estate agents
- e. Supply of services involving the preparation, coordination and performance of construction, destruction, maintenance, conversion and similar work.



➤ **What is a residential building?**

A residential building is a building or part thereof that is intended and designed for occupation by individuals, and mainly includes buildings which can be occupied by any person as their main place of residence.

However, it excludes the following:

- a. Any place that is not a building fixed to the ground and can be moved without being damaged
- b. Any building that is used as a hotel, motel, bed and breakfast establishment, or hospital or the like
- c. A serviced apartment for which services in addition to the supply of accommodation are provided
- d. Any building constructed or converted without lawful authority.

Commonly, the sale or rental of the following would be considered as a residential building transaction:

- a. Apartments and villas (not serviced)
- b. Accommodation for students and labourers
- c. Accommodation for armed forces and police
- d. Orphanages, nursing homes and rest homes.

➤ **What is a commercial building?**

A commercial building is any building or part thereof that is not a residential building. Generally, the following would be classified as commercial buildings:

- a. Shops and offices
- b. Warehouses
- c. Buildings for clinics and hospitals
- d. Buildings for schools and universities
- e. Serviced apartments
- f. Short lets (6 months or less).

➤ **How will real estate be treated under UAE VAT?**

The place of supply in relation to the sale or leasing of real estate and the services directly related to the real estate shall be the location of the real estate property. It is to mean that, the sale or lease of real estate located in the UAE would be treated as supply of goods in the UAE and the VAT treatment on the same shall depend on whether it is a commercial or residential property.

Below is a snapshot of VAT treatment on various types of real estate properties:

If the supply is of ...	then the VAT liability is ..
A commercial property	5%
Residential property (first supply)	0%



If the supply is of ...	then the VAT liability is ..
Other residential property	Exempt
Bare land	Exempt
Covered land	5%
Charitable building (first supply)	0%
Other charitable building	5%
A property located within a Designated Zone	Out of scope

To ensure that real estate developers can recover VAT on construction of residential properties, the first supply of residential properties within three years from their completion will be zero-rated.

➤ **What is a supply in relation to real estate?**

A supply of real estate may include the sale, lease or provision of right in any real estate.

➤ **How is a mixed-use building (residential and commercial) treated for VAT?**

If a building or plot of land is subject to different VAT treatment i.e. taxable as well as exempt, then it would be construed as a mixed-use property with clear demarcation of type of usage, e.g. residential-cum-commercial complex.

Accordingly, where the mixed-use property is supplied (in whole or in part), it would be essential to apportion the consideration towards taxable and exempt supply – for instance, supply of the commercial part would be taxable and supply of the residential part would be exempt (except first supply).

VAT pertaining to the development cost of new mixed use real estate can be recovered in full subject to the residential portion meeting the conditions of zero rating of first supply.

Input tax on operation and maintenance cost ('O&M') which is in relation to the commercial portion is recoverable in full, while O&M in relation to the residential portion is not recoverable.

Input tax incurred in relation to common expenses would be recoverable using the proportionate method.

➤ **What shall be considered as bare land?**

Bare land means where none of the following is present on the land:

- Completed buildings
- Partially completed buildings
- Civil engineering works (for instance roads, bridges, pipes used for water supply or power services).



Further, where the land is covered only by natural objects such as natural trees and plants, it will also be considered as bare land.

In cases where the land does not satisfy the aforesaid conditions, it would be construed as commercial land.

➤ **Does the owner of real estate have to register for VAT?**

The owners of residential buildings do not have to register for VAT if they do not have any other business activities. Where owners have other business activities, they should consider their obligations further.

The owner of any building that is not residential will have to register if the value of the supplies over the preceding 12 months exceeds AED 375,000 or it is expected that they will exceed AED 375,000 over the coming 30 days.

➤ **Can a real estate owner recover VAT paid in relation to real estate?**

An owner of a residential building will not be able to recover VAT in respect of expenses related to the exempt supply of the residential buildings.

An owner of a commercial building will generally be able to recover VAT in respect of expenses related to the supply of the building.

➤ **Is VAT payable on security deposits?**

VAT would be payable only on the non-refundable security deposit and not on the refundable one. If the refundable security deposit is forfeited at a later stage due to non-compliance with the agreement or conditions attached to leasing, VAT would be payable on the forfeited amount.

➤ **What will the VAT treatment be for labour camps?**

Labour camps can only be for accommodation or accommodation with additional services. It is therefore necessary to consider on a case by case basis whether a labour camp meets the definition of a residential building.

A labour camp will be considered to consist of lodgings which are to be treated as residential buildings where:

- The building or lodging is occupied by the employee as their principal place of residence
- The building is placed where an individual resides, and a person can only have one principal residence
- The building is fixed to the ground and cannot be moved without being damaged
- The building has been constructed or converted with lawful authority



- The building is not similar to a hotel, motel, bed and breakfast establishment, or serviced apartment for which services in addition to the supply of accommodation are provided.

➤ **Can input tax incurred in relation to labour camps be recoverable?**

Input VAT incurred on costs relating to provision of accommodation is recoverable, if accommodation is required to be provided as per any statutory obligation or documented policy in line with common business practice. However, if any rent is recovered directly or indirectly, the same would amount to rental of residential accommodation, which is an exempt activity and on which no input VAT is recoverable.

➤ **How will owners' associations ('OA') be treated under VAT?**

OAs are not normally incorporated legal entities, but instead they could be:

- A legal partnership between the members
- An association with legal status, registered under laws concerning joint property ownership
- An unincorporated group or association with no legal personality/status.

An OA will be required to register for VAT subject to the mandatory registration threshold (or if it meets the conditions to register for VAT voluntarily).

In the case where an OA is registered, any service charges made by the OA should be chargeable to VAT at 5% and consequently be eligible to recover input VAT.



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