VAT

هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

Tax Circular

Recovery of VAT Incurred in the Context of Conducting Public Benefit Projects

Issue 1 I February 2025

Note: The English version is for guidance purposes only. In case of any discrepancy between the Arabic and English versions, the Arabic version shall prevail

The Zakat, Tax and Customs Authority has prepared and issued this Guideline to provide clarification on certain treatments and procedures related to the application of the regulatory provisions that were in force at the time this Guideline was released. The material presented in this Guideline should not be interpreted as modifying, replacing, or amending any of the applicable laws or regulations in force within the Kingdom.

The Authority affirms that, where relevant, it will apply the interpretative treatments set out in this Guideline in accordance with the applicable regulatory provisions. Should any clarification or content contained in this Guideline be updated without a corresponding amendment to the underlying regulatory provisions, the revised interpretative guideline will apply only to transactions conducted after the date on which the updated version of the Guideline is published on the Authority's official website.

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1. Subject of the Circular

This Circular clarifies the mechanism, requirements, and obligations for the recovery of Value Added Tax (henceforth 'VAT' or "Tax") on expenditures, purchases, and costs incurred in the context of qualifying public benefit projects.

2. General Definitions

The following terms and expressions, wherever they appear in this Circular, shall have the meanings set out opposite each of them, unless the context requires otherwise:

Kingdom

The territory of the Kingdom of Saudi Arabia, including any areas beyond its territorial waters over which the Kingdom exercises sovereignty and jurisdiction over its waters, seabed, subsoil, and natural resources in accordance with its law and international law.

Authority

The Zakat, Tax and Customs Authority (ZATCA).

Tax

VAT pursuant to the Agreement[1].

Law

The VAT Law issued by Royal Decree No. M/113 dated 2nd Dhu al-Qi'dah 1438H/25th July 2017, including any amendments thereto.

Implementing Regulations

The Implementing Regulations of the VAT Law issued by Resolution No. 3839 of the Board of Directors of the General Authority of Zakat and Tax at that time, dated 14th Dhu al-Hijjah 1438H/5th September 2017, including any amendments thereto.

Unified Agreement

The Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf (GCC) issued in November 2016.

(1) Article 1 of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf (GCC).

Circular

The Tax Circular on the Recovery of VAT in Public Benefit Projects.

Government Entity: Ministries, government agencies, authorities, public institutions, and bodies with independent legal personality.

Competent Authority

The government entity benefiting from the public benefit project in its capacity as a public authority, responsible for delivering and receiving it for its interest.

Donor

A natural or legal person who undertakes or contributes to the implementation of the public benefit project(s).

Eligible Person

A donor who has obtained approval from the Authority to have their application accepted for registration as an eligible person for recovery.

Third Party

Any person contracted by the donor for the purpose of implementing one or more public benefit projects.

3. Overview of Tax Recovery for Eligible Persons

VAT is applied to most supplies of goods and services made by a taxable person in the Kingdom, taking into account certain limited exceptions, in accordance with the provisions of the Law and its Implementing Regulations. A taxable person shall apply VAT at the standard rate (15%) on taxable supplies of goods and services provided to any person or entity in the Kingdom, regardless of the identity or tax status of the customer. Accordingly, tax is levied on supplies made to individuals, companies, or the public in the Kingdom.

However, the Implementing Regulations include provisions allowing eligible persons to recover VAT incurred in the Kingdom[2], as set out in this Circular. This Circular addresses public benefit projects for which eligible donors may submit a request to recover the VAT incurred.

(2) Article 70 of the Implementing Regulations of the VAT Law.

4. Public Benefit Projects

A public benefit project is a project limited to the construction, building, demolition, reconstruction, restoration, or expansion of mosques, community centers, healthcare facilities, educational facilities, and other public benefit projects, to be delivered to the competent authority in the Kingdom upon completion. Such projects are undertaken as donations, without any monetary consideration or compensation received by the donor at or after the delivery of the public benefit project to the competent authority or to any other person or entity.

5. Conditions for Donor Registration as an Eligible Person for Tax Recovery

A donor who incurs and pays VAT in the context of a public benefit project may apply to the Authority for registration as an eligible person for tax recovery in accordance with the provisions of the Implementing Regulations[3], upon fulfilling all of the following conditions:

1. Approval of the Public Benefit Project by the Competent Authority

The donor must provide a contract or agreement between themselves and the competent authority confirming that the project is provided as a donation for public benefit purposes. The agreement must include all data and information related to the parties to the agreement and the project being donated:

This condition means that a donor who incurs VAT on goods and services in the context of implementing a public benefit project must obtain approval from the competent authority. Such approval must be in the form of an official written document, such as a contract or agreement, confirming that the project has been or will be provided to the government entity as a donation for public benefit purposes. The document must also include all essential details regarding the signatory parties, such as the donor and the competent authority, and accurate information about the donated project.

(3) Article 70 of the Implementing Regulations of the VAT Law.

2. Provision of a Project Implementation Contract or Agreement with Any Third Party

Unless the donor is a legal person executing the project themselves, the donor must submit a contract or agreement with any third party responsible for project implementation:

This condition clarifies the procedure for document submission based on who executes the project, whether the donor themselves or a third party, as follows:

a. If the donor does not implement the public benefit project themselves but contracts a third party to carry out the project, the donor must submit a contract or agreement between themselves and the third party. This document must demonstrate the contractual relationship between the donor and the party responsible for executing the project, such as an agreement signed between the donor and the contractor tasked with the construction.

b. If the donor is the legal person itself responsible for executing the public benefit project, such as a licensed entity authorized to carry out construction or restoration activities, the donor is not required to submit a project implementation contract or agreement with any other party, as the donor itself is executing the project. The donor must, however, be able to analyze costs and provide supporting documentation to allocate expenses related to the public benefit project.

Example 1:

An individual wishes to undertake a charitable activity, such as constructing a mosque. This donor will engage a licensed legal person in the construction business to carry out the construction. In this case, the donor is not personally executing the task but is relying on a third party. Therefore, the donor must provide documentation demonstrating the contractual relationship between themselves and the third party executing the public benefit project, while complying with all other conditions.

Example 2:

A legal person licensed to perform construction, restoration, demolition, and related activities (a contractor) wishes to undertake a charitable activity, such as restoring a healthcare facility. Since this person can carry out the charitable work themselves, the requirement to submit a project implementation contract or agreement does not apply, provided that all other conditions are met.

3. The donor must submit the construction permits for the public benefit project issued by the relevant authority or authorities:

To ensure that the project complies with regulatory requirements, the donor must submit the construction permits issued by the relevant authority or authorities. These may include, without limitation: building permits, demolition permits, restoration permits, permits for correcting the status of an existing building, and other types of construction permits approved by the relevant authorities.

The permits must be issued by the competent authorities and, in some cases, multiple permits from several relevant competent authorities may be required. "Relevant authorities" refers to any ministry, authority, or public institution, or equivalent body, responsible under its regulations for supervising a specific activity that requires a permit issued by that authority.

4. The delivery of the project to be executed to the competent authority must not constitute a taxable supply, and the donor shall not have the right to deduct input VAT related to the public benefit project in their capacity as a taxable person under the provisions of the Law and Implementing Regulations.

This condition means that the delivery of the public benefit project to the competent authority must be made as a donation, with no consideration or compensation payable to the donor. If the donor receives any monetary or in-kind consideration, the project is not considered a donation and is subject to the general provisions of VAT.

Furthermore, if the donor is a taxable person for VAT purposes and has deducted, or has the right to deduct, input VAT related to the public benefit project, they will not be able to recover the VAT in this context. Input VAT refers to the VAT borne by a taxable person on goods and services supplied to or imported for the purpose of carrying out their economic activity.

Example:

A person engaged in economic activity and registered with the Authority as a VAT taxable person declares input and output VAT in their tax returns. This person wishes to undertake a

charitable activity by constructing an educational school. In this case, the person is not entitled to deduct the input VAT incurred in constructing the school, as this activity is outside the scope of taxable supplies. Consequently, under the rule that input VAT is not deductible for economic activities represented by taxable supplies, the donor is entitled to recover the VAT as an eligible donor, provided all other conditions are met.

5. The donor must not be able to recover the VAT incurred on the execution of the project as input VAT in their capacity as a real estate developer eligible for recovery or any other eligible person under the provisions of the Law and Implementing Regulations:

This condition indicates that the donor must bear the cost of the VAT without being able to recover it. In other words, even if the donor is eligible to recover VAT as a real estate developer, charitable organization, diplomatic entity, or any other eligible category they must not have recovered, nor will they recover, the VAT incurred on executing this project.

Example:

A real estate developer registered with the Authority as an eligible person for recovery decides to undertake a charitable activity by constructing a school and delivering it to the competent authority upon completion. In this case, the real estate developer must not have recovered the VAT in their capacity as an eligible developer for them to have the right to recover the VAT as a charitable donor, subject to all other conditions.

6. The project subject to the donation must not violate the laws, regulations, decisions, or any equivalent enforceable provisions in the Kingdom:

This means that the project must fully comply with all applicable laws, regulations, decisions, and enforceable provisions in the Kingdom of Saudi Arabia.

6. Eligible Expenses and Costs for Recovery

Eligible expenses and costs for recovery are those on which the donor can recover VAT (VAT). That is, the donor must verify that the VAT incurred in the context of executing the public benefit

project is recoverable, provided it meets the statutory conditions. These expenses include, but are not limited to, the following examples:

- **Construction and building costs:** Costs of purchasing materials and construction works.
- **Service costs:** Fees paid to consultants, engineers, and other professional service providers.

These expenses must meet the following statutory requirements:

1. The supplier must correctly charge VAT on the goods and services received by the donor. This must be evidenced through the tax invoice or the customs declaration proving that the tax was paid upon import. The tax invoice must meet all statutory requirements stipulated in Article 53 of the Implementing Regulations of the VAT Law, in addition to compliance with the electronic invoicing regulations and related statutory requirements. Furthermore, proof of payment for the amounts stated in the tax invoices must be available. Each recovery request related to goods and services supplied to the eligible person must include the following information:

c. Supplier's name and tax identification number.
d. Invoice date.
e. Invoice number.
f. Total invoice amount.
g. Amount of VAT.
h. Description of the purchased goods or services.

2. VAT recovery is limited to the VAT actually paid and incurred in the context of the public benefit project.

7. Submission of Recovery Requests

7.1 Recovery Periods

Recovery requests may be submitted for each quarterly period or calendar year. All recovery requests must be submitted within six months from the end of the calendar year relevant to the claim period. If this period lapses, the eligible person loses the right to recover VAT for that period.

Exception: Donors who are recognized as eligible persons for recovery and have incurred VAT on public benefit projects on or after 1st January 2018 may claim recovery of that VAT by including it in any recovery request submitted for periods starting after 30 May 2024, with the final recovery period limited to 2025.

7.2 Incorrect Recovery Claims

If the statutory time limit for submitting a recovery request expires without the eligible donor filing a claim, the right to recover VAT for the periods in respect of which no request was submitted to the Authority shall lapse. An eligible donor may not claim recovery of VAT that has not been paid, VAT not related to a public benefit project, or VAT that has already been claimed for recovery or deducted from the Authority. The total VAT amount subject to recovery for each recovery period must not be less than SAR 1,000, and the Authority will not accept any recovery request where the total amount is below this threshold. If the eligible donor expects that the total VAT recoverable during a quarterly period will be less than SAR 1,000, the Authority recommends changing the recovery period to a calendar year in order to meet or exceed the minimum recoverable amount.

If an eligible donor recovers VAT incorrectly or without entitlement, they must, on their own initiative and immediately upon becoming aware of the error, repay an amount equal to the VAT wrongly recovered to the Authority. If the Authority determines at any time that VAT has been recovered in error or without legal basis, it may issue an assessment specifying the amounts improperly recovered.

7.3 Required Information

1. The person approved by the Authority as an eligible person for VAT recovery must use the tax

identification number issued to them upon acceptance of registration, or the identification number issued pursuant to such approval, in all correspondence with the Authority, specifically in recovery requests.

2. Each recovery request relating to VAT on goods and services supplied to the eligible person must include the following information:

First: A statement of projects, including the following:

- Project name.
- Estimated project cost.
- Project start date.
- Project completion date.
- Percentage of completion.

For each project, the building permit, a copy of the title deed on which the project will be constructed, as well as the contract and bill of quantities, must be attached.

Second: A statement of purchases, including the following:

- Supplier's name and tax identification number.
- Invoice date for which VAT recovery is claimed.
- Invoice number.
- Total invoice amount.
- VAT amount.
- Description of the purchased goods or services.
- Project name.

The eligible person must repeat these details for each good or service received for which recovery of the incurred VAT is sought.

In addition to the above, a recovery request may include VAT paid on services or goods for which a tax invoice has been issued and is held by the taxable person, provided that the invoice is dated within the specified recovery period.

3. Upon submitting a recovery request to the Authority, the eligible donor must maintain the books, records, and supporting documents evidencing their entitlement to recovery, in particular the tax invoice relating to the supply subject to recovery issued in the name of the eligible donor and containing all details of the goods or services connected to the relevant public benefit project, in addition to documents proving payment of the VAT subject to recovery. If the conditions set out in paragraph 5 of Article 53 of the Implementing Regulations of the VAT Law are not met, the Authority shall not accept the request.

4. At the time of submission, the total amount of the recovery request must be SAR 1,000 or more.

5. A donor approved as an eligible person for recovery must specify the bank account to which the VAT is to be refunded in the event that the Authority approves the recovery request in whole or in part.



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