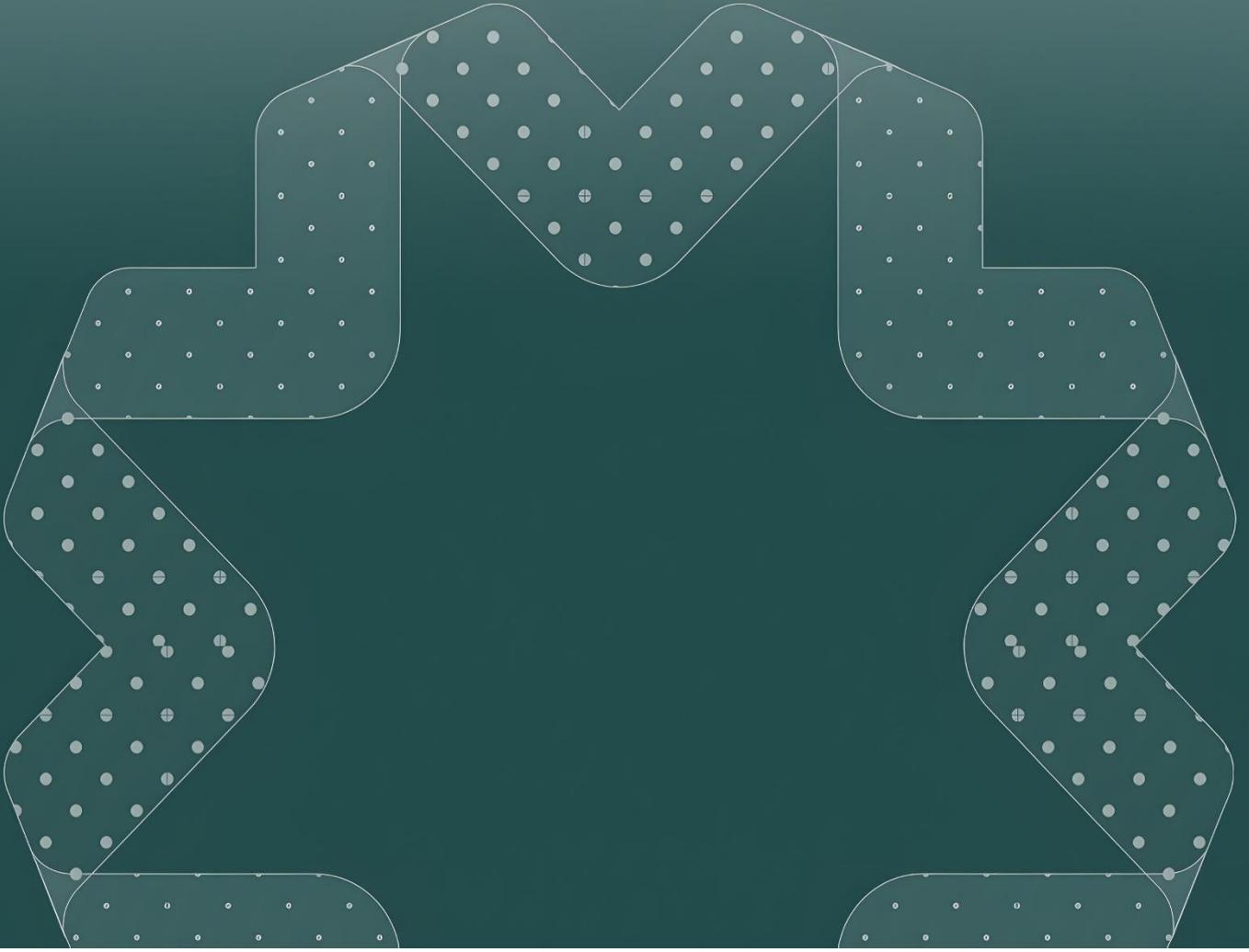




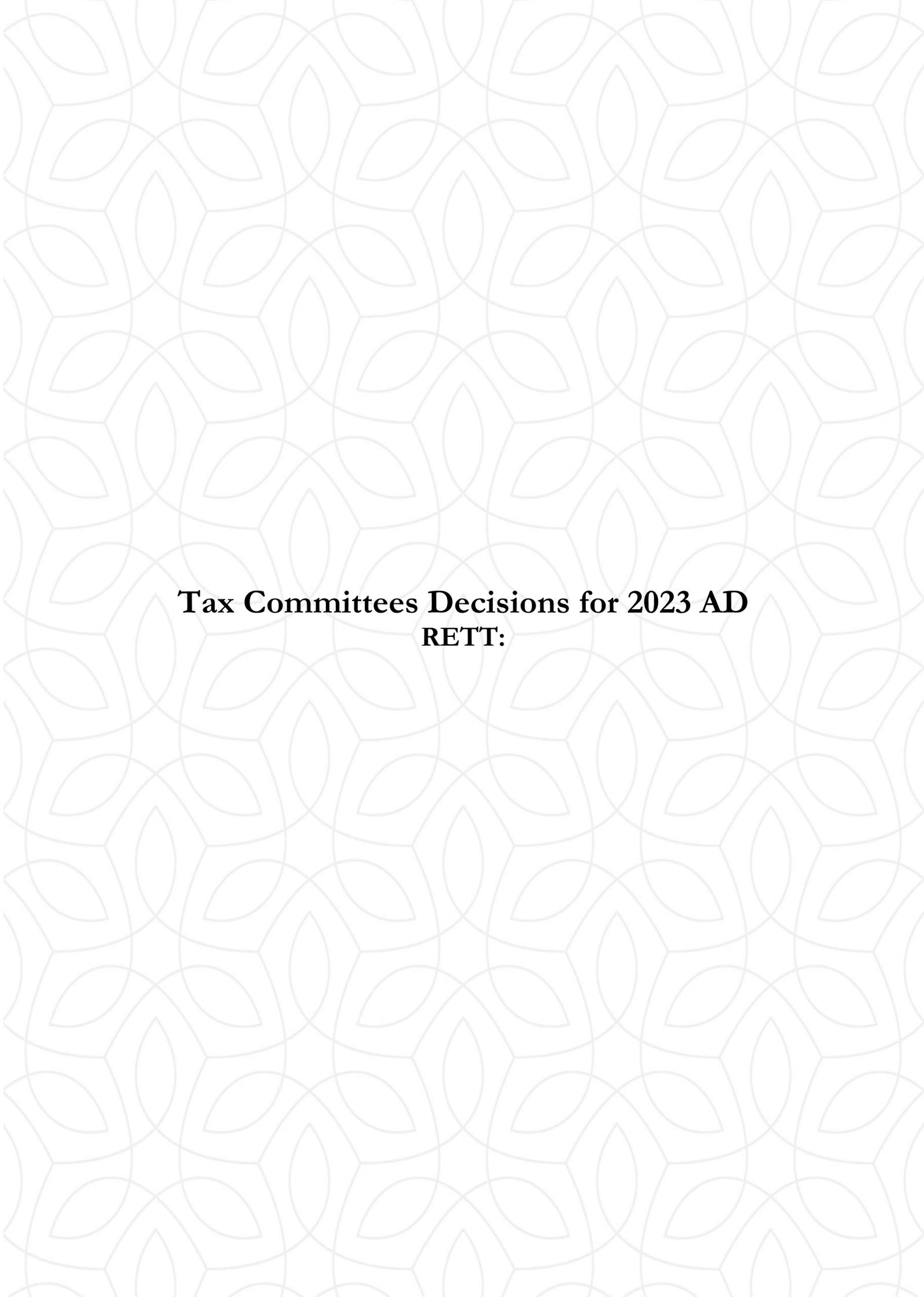
الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Tax Committees Decisions for 2023 AD RETT:





الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

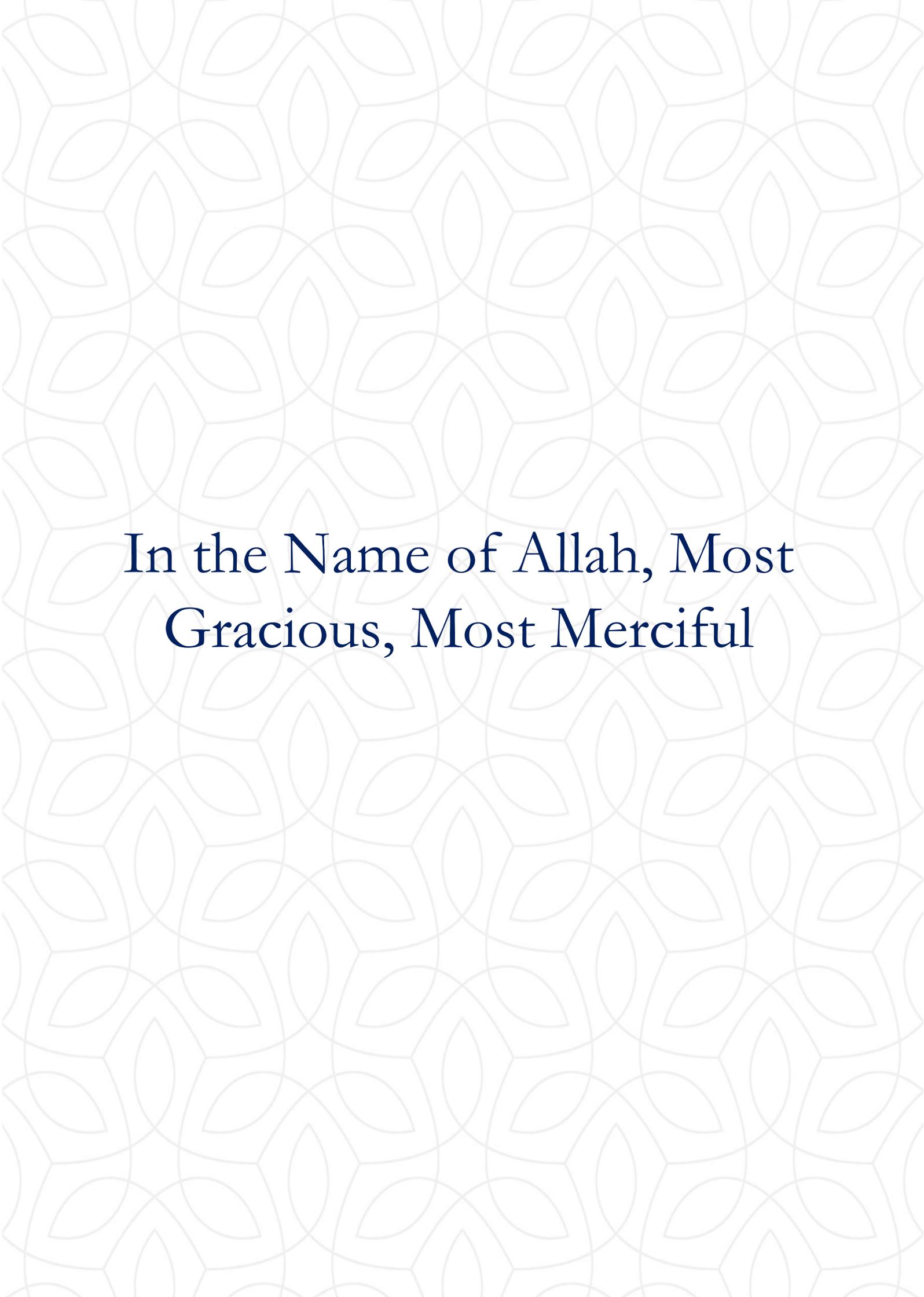


**Tax Committees Decisions for 2023 AD
RETT:**



الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

**Tax Committees Decisions for 2023 AD
RETT:**



In the Name of Allah, Most
Gracious, Most Merciful

List of Decisions

Introduction	12
Message of His Excellency, Secretary General of Zakat, Tax and Customs Committees	13
Work Methodology:	14
First: Decision based on Formal Aspect	15
Real Estate Transaction Tax - Real Estate Supply - Dismissal for Lack of Capacity ...	16
Real Estate Transactions Tax - Late Registration Fine- Case File Does Not Contain Objection Rejection Notice - Dismissal in Form.....	18
Real Estate Transaction Tax – Final re-assessment– Legal Time Limit– Dismissal in Form.	21
Real Estate Transaction Tax - Commercial Lease - Case Closed.	24
Real Estate Transaction Tax - Dismissal in form - Dismissal for Lack of Capacity.....	26
Real Estate Transaction Tax - Legal Time Limit - Dismiss the objection in form for submitting the prematurely.....	28
Real Estate Transaction Tax - Preliminary matter to decide before proceeding to the case is to verify the capacity of litigants - Case dismissed for being filed against a party without capacity under the case	30
Second: Decision based on Substantive Aspect	32
Real Estate Transaction Tax – Late Payment Fine – Dismissal based on Merits of Case	33
Real Estate Transactions Law - Real Estate Financing - Value Added Tax - Exemption for the First Home - Case Accepted on Merits.....	37
RETT - Tax refund - Real estate sale - First Residence Exemption Certificate - Accept Case on merits.	41
RETT - Real estate sale - First Residence Exemption Certificate - Accept Case in form.	44
RETT - Real estate reassessment - Real estate supplies - Late payment fine - Accept the Case in form.....	47
RETT - Late payment fine - Responsibility of tax supply is held by depositing person.	50
RETT - VAT - Non-entitlement to Tax Exemption Certificate - Real Estate Supply - Transfer of obligation.....	54
RETT - VAT - Real estate supply - Failure to provide any evidence of VAT payment - It is established that the customer assumes the responsibility of paying taxes.....	57
RETT - Added value - Late payment fine - Declaration amendment - Accept Plaintiff Case and cancel tax amount.	61
Real Estate Transaction Tax (RETT) - Late Payment Fine - There are variances between real property sale prices and average market value - The principal rule is transaction correctness unless otherwise is proven.....	65
Real estate Transaction Tax – revaluation of the property – value added – late payment – fair market value of land.....	69
Real estate Transaction Tax – final appraisal – late payment – real estate by gift – tax disputes.....	72
Real estate Transaction Tax – revaluation of the property – value added – late payment – Transfer of Ownership through Gift - Acceptance of Case in Form.....	75
Real estate transaction tax – Real Estate Sale - Value Added Tax -The general principle is that the burden of paying the tax on goods and services falls on the client or buyer - Indirect tax.	78
Real estate transaction tax – late payment fine – revaluation of the property – rejection of Plaintiff's claim.	81
Real estate transaction tax – seizure of real estate - rejection of Plaintiff's claim.	85

Real estate Transaction tax – Late Payment Fine – Annulment of Defendant's Decision.	88
Revaluation – Real Estate Transaction Tax – Delay in Payment Penalty – Satisfaction of Gift Condition – Fair Market Value – Rejection of Plaintiff's Claim.	91
Real Estate Transaction Tax (RETT) - RETT Reassessment - Late Payment Fine - The Ministry of Justice website does not differentiate between the sale of undeveloped land and land with a villa or building - Mechanism for calculating value of property at a value higher than the disclosed value.	95
Real Estate Transaction Tax (RETT) - RETT Reassessment - Late Payment Fine - A partnership agreement for purchase of land that is not authenticated by a lawyer for the purpose of subdividing property and transferring partner's portion.....	98
Real Estate Transaction Tax (RETT) - RETT Reassessment - Imposing RETT - Late Payment Fine - Transfer of Property Ownership by Sale and not a Mortgage – Evaluation Resulted in Calculating RETT in an Amount Higher than the Due Amount - Dismissal of Plaintiff Case.	102
Real Estate Transaction Tax (RETT) - RETT Reassessment - Imposing RETT - Transfer of Land Ownership in Name of Heirs' Attorney - Deed of Sale - Considering Fair Market Value of Property at the Date of Transaction - Case Dismissal.	105
Real Estate Transaction Tax (RETT) - RETT Invoice - Imposing Late Payment Fine - RETT Reassessment based on Fair Market Value of Property - Nominal Amount to Prove Transfer of Ownership	108
Real Estate Transaction Tax (RETT) - Reevaluating Real Property in a Value Higher than Sale Value - Imposing Late Payment Fine - Failure to Submit Necessary Supporting Documents Based on Which Difference is Calculated.	112
Real Estate Transaction Tax (RETT) - Real Property Sale - Obliging Defendant to Pay Remaining VAT of Real Estate Supply Subject Matter of the Case.....	115
Real Estate Transaction Tax (RETT) - RETT Initial Assessment - Incorrect Reassessment - Disposing Real Property in a Value Lower than Fair Market Value - There are variances between real property sale price and average market value of the real property in the same plan - Dismissing Plaintiff's Case on Merits.....	118
RETT - RETT Resulting from Reassessment - Entitlement to Exemption for Holders of First-Time Home Buyers Certificate from Buyer - Attach Spreadsheet Showing Buyer Identity - Accept the Case on Merits.	122
RETT Resulting from Real Estate Revaluation - Late Payment Fine - Real Estate Declared Value Does Not Reflect its True Value - the resulting occurrence shall take the same effect	126
RETT - RETT Reassessment - Difference in Value of DUE TAX not Paid on Due Date - Imposition of Late Payment Fine for Months Following Real Estate Transaction - Cancellation of Decision.....	130
RETT - Reassessment of Real Estate Transaction - Cancellation of Defendant's Decision.....	133
RETT - RETT Reassessment - Incorrect calculation of land value - Property Fair Market Value.	136
RETT - Submitted Declaration Was Found to Be Invalid, Which Necessitated Amendment Thereof - A Difference in Value of Due Tax That Was Not Paid on the Statutory Date - Late Payment Fine - Dismiss Plaintiff's Case.....	140
RETT - RETT Reassessment - Real Estate Fair Market Value - Difference in Value of Due Tax not Paid on Due Date - Late Payment Fine for Months Following Real Estate Transaction - Failure to Submit Valid Documents Supporting Validity of Decision.	143
RETT - Conveyance by Gift to Brother - Non-Payment of RETT on Due Date - Dismissal of Case.	146

Real Estate Transactions Tax - Value Added Tax Resulting from Real Estate Supply - Attorney Fees - The Buyer is Primarily Responsible for Bearing Burden of Paying Tax on Received Goods and Services.....	149
Real Estate Transaction Tax - Real Estate Supply - Customer is the Original Bearer of Burden of Paying Tax - Imposing Fines as a Result of Failure to Collect and Pay Tax on Time.	153
Real Estate Transaction Tax – Tax paid for Property Value – Defendant is Obligated to Pay the Full Tax to Property Owner – Dismissal of Plaintiff’s Case.	157
Real Estate Transaction Tax – Conclusion of a Real Estate Financing Contract Under Murabaha – Dismissal of Plaintiff’s Case.....	161
Real Estate Transaction Tax – Final Reassessment of Real Estate Transaction Tax – Late Payment Fine – Abolishment of Defendant’s Decision.	164
Real Estate Transaction Tax – Real Estate Supply – The Burden of Payment of VAT on Goods and Services Received Falls on Buyer.....	167
Real Estate Transaction Tax – VAT Resulting From Real Estate Supplies – Attorney Fees – The Burden of Payment of VAT as an Indirect Tax Falls on Buyer.....	170
Real Estate Transaction Tax – Late Payment Fine – Leverage From First Residence Certificate – Abolishment of Defendant’s Decision.	173
Real Estate Transaction Tax – VAT Resulting From Real Estate Supplies – Attorney Fees – The Burden of Payment of VAT as an Indirect Tax Falls on Buyer.....	176
Real Estate Transaction Tax – Real Estate 181	
Supply – Non-Registration in Tax at Time of Completion of Sale – Non-Entitlement To Amount Claimed.....	181
Real Estate Transaction Tax – The Original Burden of Payment of Tax as an Indirect Tax on Received Goods and Services Falls on Customer or Buyer – Payment of Defendant of VAT Amount for Real Estate Supply in Question.	184
Real Estate Transaction Tax – Late Payment Fine – Acceptance Plaintiff’s Case.....	187
RETT - Reassessment – Late Payment Penalty – Adjustment of RETT Due Amount.	191
RETT - Tax Period – Reassessment – Higher Value – Late Payment – Defects in the Sold Plot– Tax Evasion.....	194
RETT - Initial Assessment of RETT - Late Payment Penalty – Consideration of the Fair Market Value of the Property as the Basis for Calculating the Tax Amount – Discrepancy in the Tax Amount Due that was Not Paid within the Legal Deadline – Conclusion of the Case.	197
RETT - Conveyance data before prior to the effective date of registration - The principal responsibility for bearing the tax burden on received goods and services lies with the client.....	200
RETT Assessment - Transfer of Property Ownership – Late Payment Penalty – Acceptance of the Case.....	204
Real Estate Transaction Tax - Revaluation of property at a higher value than the sale price - Late payment penalty - Declared property value does not reflect its true value - Adjustment of the tax amount due - Failure to provide necessary supporting documents to calculate the difference - Acceptance of the Plaintiff’s claim.	207
RETT - Late payment penalty - Annulment of the Defendant’s decision.....	210
RETT - Late Payment Penalty - Reassessment of the Real Estate Transaction - Calculation of Property Value Higher than Declared Value - Utilizing the average selling price of the plan does not accurately reflect the market value of the property-Acceptance of the Plaintiff’s Claim.....	213
Real Estate Transaction Tax – Reassessment– Imposition of Late Payment Fine– Donee Legally Permitted to Receive a Gift – Cancellation of the Defendant’s Decision.	217

Real Estate Reassessment- Real Estate Transaction Tax - Late Payment - Market Value of the Property.	221
Due Real Estate Transaction Tax – Reassessment of Property – Imposition of a Late Payment Fine – Failure to Provide Document to Dispute Actual Sale Price – Assessed Value of Property does not Reflect its Actual Value – Adjustment of the Due Tax Amount – Failure to Clarify Mechanism for Calculating Property Value at Higher Value than the Declared Value – Acceptance of the Plaintiff’s Claim.....	226
Real Estate Transaction Tax – Late Payment Fine– Sale Value Does Not Represent Actual Market Value of Property – Estimating Property Value Based on Fair Market Value – Using Average Sales Prices in the Area Does Not Represent an Accurate Indicator of Market Value of Property.	231
Real Estate Transaction Tax - Incorrect Entry - Tax Declaration - Imports Subject to Basic Rate and Paid upon Importation - Taxable Local Sales - Error in Tax Declaration - Late Payment - Value Added Tax.	235
Real Estate Transaction Tax - First Home - Tax Decision - Certificate of Entitlement - Payment of Attorney Fees.	239
Real Estate Transaction Tax – Reassessment of Property – Sale of a Plot of Land – Late Payment – Market Value.....	242
Appeal – Real Estate Transaction Tax – Decision is in Agreement with Valid Reasons upon which it was Based and is Sufficiently Supported to Uphold Judgment – Acceptance of Appeal in Form for being Submitted by a Person with Capacity within the Statutory Period – Rejection of Appeal.	246
Appeal – Real Estate Transaction Tax – Input Tax – Final Assessment – Tax Period – Local Purchases Subject to Basic Tax – Acceptance of Appeal in Form and On Merits.	248



Introduction

Praise be to Allah, Lord of Worlds. May His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

Courts and judicial commissions efforts, rulings and decisions constitute an invaluable jurisprudential and judicial wealth that must be carefully preserved. In the context of commercial and industrial revolution that Kingdom of Saudi Arabia is experiencing under Saudi Vision 2030, various zakat and tax controversies have arisen, affecting many people. Therefore, and based on General Secretariat of Zakat, Tax and Customs Committees social responsibility, Secretariat has sought to create a solid foundation and reference for committee members, taxpayers and interested parties by publishing final decisions issued by tax committees in 2023. This contributes to effective settlement of zakat and tax disputes, and limits time taken for deciding upon cases. These records clarify decisions reached by committees, which would have a positive impact on shortening litigation period, saving efforts for case examiner, fulfilling principle of transparency pursued by General Secretariat, and introducing practical aspects to bodies concerned with legal research, particularly academic, training and other relevant bodies.

We ask Allah Almighty that this book be a sincere endeavor for the sake of Allah, to reward our efforts and guide us to goodness. He is indeed the most generous.



Message of His Excellency, Secretary General of Zakat, Tax and Customs Committees Praise be to Allah almighty,

General Secretariat of Zakat, Tax and Customs Committees vision and values has been committed to excel in resolving zakat, tax and customs disputes, adopt innovative and effective approaches, enhance transparency and neutrality, develop cooperation between parties of zakat, tax and customs ecosystem, and play an effective role in raising efficiency of legal consideration. This is intended to enable zakat, tax and customs committees to successfully resolve disputes before them, and provide support and assistance to committees at all stages by conducting studies and research, as well as also helping taxpayers by clarifying laws, decisions and judicial precedents, and updating them periodically.

General Secretariat has attached special importance to final decisions issued by committees, being the final product of well-established judicial jurisprudence, and can be developed and updated to reflect changes. Recording such precedents help decide on similar disputes heard by judicial committees.

Knowing these decisions also eliminate disagreements and disputes and supports litigants position before committees. This effort includes the project of classification and categorization of final decisions issued by tax committees.

This priceless value of appellate decisions necessitated that they be assembled and published for public to achieve principle of transparency, consolidate existing efforts, and enrich scientific arena to be a fertile field for scholars, specialists and research centers.

Publication of these final decisions is a noble effort by General Secretariat, which comes in line with its mandate, and demonstrates its resolute commitment to promoting justice according to support and directives of our blessed leadership, with its unlimited support for the legislative and regulatory ecosystem.

In conclusion, I would like to extend my sincere gratitude to His Royal Highness Custodian of the Two Holy Mosques, King Salman bin Abdulaziz, and his Crown Prince, His Royal Highness Prince Mohammed bin Salman bin Abdulaziz, Prime Minister, may Allah protect them, for their generous patronage and support for judicial activities in various fields. I also extend my sincere recognition to employees of General Secretariat for their distinguished efforts in issuing this product, which I hope will achieve its goals and be a qualitative addition to the legal field.

Secretary General

Abdullah bin Abdulrahman Al-Suhaibani



Work Methodology:

General Secretariat was keen to select and publish comprehensive judgments to achieve desired benefit. Given the importance of appropriate description of case before committees and its impact on inference and reaching the decision, which is the outcome sought by parties to lawsuit, and given the diverse facts and circumstances of tax and zakat cases, there has been a need to sort and classify committees decisions for easy reference for litigants and interested parties.

Based on General Secretariat of Zakat, Tax and Customs Committees role in adopting and applying principles of continuous improvement and development in management of zakat, tax and customs disputes, to enable conclusive settlement of these disputes, care and attention were given to classifying and publishing final decisions issued by Committees. Accordingly, was developed to come up with an easy and accessible product. Work was divided into several stages according to the following:

- Inventorying final decisions made by zakat, tax and customs committees in 2023 and those issued in late 2022 but were not included in 2022 decisions record.
- Setting keywords to facilitate search process.
- Developing abstract of decision outlining key points.
- Listing evidence on which Department relied for delivering its judgment.
- Classifying decisions objectively as appropriate and placing each decision under its relevant classification.
- Indicating name of Department delivering decision, decision number, case number, decision issue date, and assessment period.
- Ensuring anonymity of litigants and other involved parties without affecting decision.
- Checking decisions to ensure they are free from any linguistic and spelling errors.
- Decisions classification and indexing was based on Law, meaning that decisions were classified as per order of corresponding topic in within law.
- Excluding replicate decisions methodology was adopted, as replication criterion is when clauses of decisions, requests of parties and rulings are similar, even if parties are not the same.
- Adhering to exact text of decision including its facts, grounds and operative part, without any addition or amendment except for spelling and grammatical errors.



First: Decision based on Formal Aspect



Case

Adjudication Committee Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. (VTR-2023-95216)
Delivered in Case No. (R-2022-95216)

Keywords:

Real Estate Transaction Tax - Real Estate Supply - Dismissal for Lack of Capacity

Abstract:

The Plaintiff instituted this case moving to cancel ZATCA's Decision regarding the payment of Value-added Tax (VAT) in the amount of SAR 180.00 on the real estate supply, and that ZATCA bears the litigation expenses. The legal texts provide that a preliminary matter that a court should decide before proceeding to the subject matter of case is to verify the capacity of the parties to the case, which the Department rules on its own. In this case, the Department found that the case was filed by someone without capacity. Department ruled to Dismiss the case in form for lack of capacity, and the decision is final and enforceable.

Documents:

- Article (76.1) of [the Law of Procedure before Sharia Courts Promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Wednesday 15/02/2023 AD, the Department formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, convened to consider the above-mentioned case.

The facts of this case are summed up -in so far as to deliver this decision, in that the Plaintiff..., ID No...., in his capacity as the attorney under power of attorney no.for, National ID No....., submitted a statement of claims petitioning for a decision that order that the Defendant..., ID No.... pay an amount of SAR 180.000, which is the value of VAT charged for real estate supply and to pay the litigation expenses. The Plaintiff claimed the amounts paid in the tax declaration for being unduly claimed. Having presented the statement of claims to the Defendant, it entered a plea to dismiss the case in form for failure to state the claims. On Wednesday 15/02/2023, the Department held its session remotely to consider the case. Having called the parties to the case, the Plaintiff appeared in person, while the Defendant failed to appear. Having asked the Plaintiff about his claims, the Plaintiff replied that he claimed that the Defendant pay an amount of SAR 180,000... When asked about his capacity in the case, he replied that... He is the one who sold the property to the Defendant. When asked about the reason for not filing the case in his name, he replied that he is an attorney. After the Department reviewed the case file and its attachments, the Department decided to adjourn the session for deliberation, in preparation for issuing the decision.



Grounds:

Having reviewed the relevant laws and regulations, and since one of the preliminary matters that are decided upon before proceeding to the subject matter of the case is to verify the capacity of the parties to the case, which the Department decides on its own as per Article 76.1 of the Law of Procedure Before Sharia Law; and since the Plaintiff claims that the Defendant pays the tax amount for selling a property to the Defendant; and since the case is filed by ..., National ID No. ..., who has no capacity as to the subject matter of this case, this case should be dismissed in form.

Decision:

To dismiss the case in form for lack of capacity.

This decision was delivered in presence of the parties as per Article 56 of the Law of Procedure before Sharia Courts. The date of depositing the decision in the e-system of the General Secretariat of the Zakat, Tax and Customs Committees is considered the date of delivery of decision. Either party to the case may appeal against the decision within thirty days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Adjudication Committee First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1648)
Delivered in Case No. (R-89177-2021)

Keywords:

Real Estate Transactions Tax - Late Registration Fine- Case File Does Not Contain Objection Rejection Notice - Dismissal in Form.

Abstract:

The Plaintiff instituted his case moving to cancel ZATCA's decision to impose a late registration fine. The Defendant argued that the case is inadmissible in form due to the Plaintiff's failure to submit proof for his objection to ZATCA's decision. The Department determined that the Plaintiff did not provide the said proof as per the Tax Dispute and Violation Committee Procedures; and the case file did not include an objection rejection notice. The Department ruled to Dismiss the case in form and the decision is final and enforceable pursuant to Article (42) of the Tax Dispute and Violation Committee Procedures.

Documents:

- Articles (2, 3, 15.2) of [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Thursday, 28/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to consider the above-mentioned case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 27/12/2021 AD.

The facts of this case are summed up in that Mr....., holder of ID No....., acting on his own capacity has filed a statement of claims that included his objection to the imposition of a late registration fine. When the Plaintiff's statement of claims was presented to the Defendant's attorney, he responded with a one-page reply submitted to the Department.

On Sunday, 28/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Having called the parties to the case, neither the Plaintiff or his representative appeared. For the Defendant appeared Mr....., Saudi National, National ID No., acting in his capacity as a representative of ZATCA's under authorization letter No. ... dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. Having asked the Defendant's representative about his reply, he replied that he maintains his



replies included the reply deposited in the case file. Since the case has met all formal aspects and ready for adjudication as per Article 20 of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session in preparation for delivering its decision.

Grounds:

After due examination, and having taken cognizance of the case papers, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, the Common VAT Agreement of GCC States and the relevant laws, regulations and decisions.

In Form: Having examined the case file, it was found that the Plaintiff filed his case via the e-portal on 27/12/2021 AD, and where the Defendant argued that the case was not accepted in form due to the Plaintiff not submitting his objection to ZATCA's decision as per Article 2 of the Tax Dispute and Violation Committee Procedures, which provides that: "Any person against whom a decision has been issued by ZATCA may file an objection before it within 60 days from the date of notification thereof. ZATCA shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions:

1. Request the referral of the objection to the internal committee for settlement. If a taxpayer rejects the internal committee's decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the taxpayer may file a lawsuit before the dispute committee against ZATCA's decision within 30 days from the date of being notified of the internal committee's decision or upon the lapse of the period specified in the Settlement Procedures without reaching a settlement. Such lawsuit shall not include issues settled with the internal committee.
2. File a lawsuit directly before the dispute committee". Article 3 of Tax Dispute and Violation Committee Procedures has also stated the following: "ZATCA decisions shall be final and not disputed before any other agency in the following cases: 1. If a taxpayer does not object to the decision within 60 days from the date of notification thereof. 2. If a taxpayer does not file a lawsuit before the dispute committee or does not request referral of the objection to the internal committee for settlement within 30 days from the date of notification of ZATCA's decision denying said objection or upon the lapse of 90 days from the date of its filing without being decided. 3. If a taxpayer fails to file a lawsuit before the dispute committee within 30 days from the date of being notified of the internal committee's settlement

Since the Plaintiff did not provide proof for his objection to ZATCA's decision in accordance with Tax Dispute and Violation Committee Procedures, and since no objection rejection notice was found in the case file, the Department accepts the Defendant's plea to dismiss the Plaintiff's case based on formal grounds. Based on the foregoing and according to the Common VAT Agreement, Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Dismiss the case in form for failing to submit the objection filed with the Defendant according to Articles 2&3 of Tax Dispute and Violation Committee Procedures.



This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set 30 days for receiving a copy of the decision. however, the Department may extend that time limit for another 30 days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Adjudication Committee First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2023-143791)
Delivered in Case No. (R-143791-2022)

Keywords:

Real Estate Transaction Tax – Final re-assessment– Legal Time Limit– Dismissal in Form.

Abstract:

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the final reassessment of the real estate transaction tax amount. The law requires that the objection must be submitted within the prescribed period calculated from the date of notification. The Department found that the Plaintiff filed the case via the e-portal on 05/03/2022 AD, and since the Plaintiff did not provide proof for his objection to ZATCA's decision according to the regulatory provisions, and since the case file did not include an objection rejection notice, Department ruled to Dismiss the case in form due to failure to submit an objection to the Defendant within the period prescribed by law and the decision is final and enforceable.

Documents:

- Articles (2&3) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 29/01/2023 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and its amendments, and Royal Order No. (65474) of 23/12/1439 AH, held its session via video conference according to remote litigation procedures to consider the aforementioned case. Since the case has met the prescribed legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees under the above number on 05/03/2022 AD.

The facts of this case are summed up in that Mr....., National ID No. ..., acting on his own behalf, submitted a statement of claims, whereby he objects to the final reassessment of the real estate transaction tax amount, and requested that the decision be canceled. Having presented the Plaintiff's statement of claims to the Defendant's Attorney, he responded with one-page reply submitted to the Department.

On Sunday, 29/01/2023, The First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. 26040 and dated 21/04/1441AH. Having called the parties



to the case, Mr....., anational, holder of National ID No..... appeared as the Defendant's representative by virtue of authorization No. dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs and Compliance. The Plaintiff failed to appear without an excuse acceptable to the Department. Accordingly, the Department decided to adjourn the session for deliberation before delivering its decision.

Grounds:



After due examination, and having taken cognizance of the case papers, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, the Common VAT Agreement of GCC States and the relevant laws, regulations and decisions.

In Form: Having examined the case file, it was found that the Plaintiff filed his case via the e-portal on 05/03/2022 AD, and where the Defendant argued that the case was not accepted in form due to the Plaintiff not submitting his objection to ZATCA's decision as per Article 2 of the Tax Dispute and Violation Committee Procedures, which provides that: "Anyone against whom a decision has been issued by ZATCA may object to it within (sixty) days from the date of notification, and ZATCA shall decide on the objection within (ninety) days from the date of its submission. If the decision is issued to reject the objection or a period of (ninety) days has passed without a decision being made on it, the taxpayer may, within (thirty) days from the date of notification of the rejection of his objection before ZATCA or the passing of the (ninety) day period without a decision being made on it, do any of the following: 1 - Request that the objection be referred to the Internal Committee for the purpose of settlement. If the taxpayer rejects the decision of the Internal Committee regarding the settlement or the period specified in the settlement rules has passed without reaching a settlement, the taxpayer may file a grievance against ZATCA's decision before the Adjudication Committee within (thirty) days from the date of notification of the decision of the Internal Committee or the passing of the period specified in the settlement rules without reaching a settlement. His claim shall not include what may have been settled with the Internal Committee. 2. File a lawsuit directly before the dispute committee". Article 3 of Tax Dispute and Violation Committee Procedures has also stated the following: "ZATCA decisions shall be final and not disputed before any other agency in the following cases: 1. If a taxpayer does not object to the decision within 60 days from the date of notification thereof. 2. If a taxpayer does not file a lawsuit before the dispute committee or does not request referral of the objection to the internal committee for settlement within 30 days from the date of notification of ZATCA's decision denying said objection or upon the lapse of 90 days from the date of its filing without being decided. 3. If a taxpayer fails to file a lawsuit before the dispute committee within 30 days from the date of being notified of the internal committee's settlement decision or from the lapse of the period specified in the Settlement Procedures without reaching a settlement. Since the Plaintiff did not provide proof for his objection to ZATCA's decision in accordance with Tax Dispute and Violation Committee Procedures, and since no objection rejection notice was found in the case file, the Department accepts the Defendant's plea to dismiss the Plaintiff's case based on formal grounds.

Based on the foregoing and according to the Common VAT Agreement, Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:



Decision:

Dismiss the case in form for failing to submit the objection filed with the Defendant according to Articles 2&3 of Tax Dispute and Violation Committee Procedures.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set 30 days for receiving a copy of the decision. However, the Department may extend that time limit for another 30 days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Tax Dispute and Violation Committee Procedures).



Case

Adjudication Committee First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2023-160607)
Delivered in Case No. (R-160607-2022)

Keywords:

Real Estate Transaction Tax - Commercial Lease - Case Closed.

Abstract:

The Plaintiff claims to cancel ZATCA's decision regarding the payment of VAT in the amount of SAR 53,370 for a commercial lease. The law provides that the claim subject matter of the case must be settled and that the parties to that claim acknowledge such settlement. The Department established that the case was filed by a person with capacity and within the period prescribed by law. The claim was settled between its two parties as acknowledged by their respective representatives. Department ruled to Close the case and the decision is final and enforceable.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 19/02/2023 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and its amendments, and Royal Order No. (65474) of 23/12/1439 AH, held its session via video conference according to remote litigation procedures to consider the aforementioned case. Since the case has met the prescribed legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees under the above number on 06/11/2022 AD.

The facts of this case are summed up in that a statement of claims was submitted by ...Group, Commercial Registration number ..., represented by Ms....., national ID No. ..., in her capacity as the Company's attorney as per power of attorney No. ..., acting on behalf of the Group's Director, Mr., whereby the Plaintiff claims that the Defendant Co., Commercial Registration No.... Pays VAT in the amount of SAR 53,370 on commercial lease payments.

On Monday, 19/02/2023 AD, The First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. Having Called the Parties to the case, Ms., a..... National, National ID No.. .., appointed under Power of Attorney No.... appeared for the Plaintiff, For the Defendant, Mr....., a National, National ID No. appeared in his capacity as the Defendant's attorney under Power of Attorney Having asked the Plaintiff's attorney about her claims, she requested that the case be closed as the Defendant has paid the tax in dispute. Having asked the Defendant's attorney about his reply, he confirmed



the same. Therefore, the Department decided to adjourn the session for deliberation before delivering its decision.

Grounds:



After due examination, and having taken cognizance of the case papers, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, the Common VAT Agreement of GCC States and the relevant laws, regulations and decisions.

In Form: Since the Plaintiff filed its case requesting that the Defendant to pay VAT in the amount of SAR 53,370 for commercial lease payments, and given that this dispute falls within the jurisdiction of the Committee for Income Tax Interventions and Disputes under Royal Order No. (26040) of 21/04/1441 AH, and since the case was filed by a person with capacity within the period prescribed by law, the Department decides to accept the case in form.

On Merits: Since the claim in issue was settled between the two parties and acknowledged by their respective representatives, the Department decides to considers the case as closed as requested by the Plaintiff.

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, the Chamber, after deliberation, unanimously decided:

Decision:

- the case is closed upon payment of the claim in dispute by the Defendant.

This decision was made in presence of both parties. The Department has set 30 days for receiving a copy of the decision. However, the Department may extend that time limit for another 30 days as it deems appropriate. This decision is final and enforceable in accordance with Article (42) of the Tax Dispute and Violation Committee Procedures. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Tax Dispute and Violation Committee Procedures).



Case

Adjudication Committee First Department to Adjudicate Value Added Tax Violation and Disputes in Dammam

Decision No. (VD-2022-90264)
Delivered in Case No. (R-90264-2022)

Keywords:

Real Estate Transaction Tax - Dismissal in form - Dismissal for Lack of Capacity

Abstract:

The Plaintiff instituted his case requesting to cancel ZATCA's decision on the refund of the real estate transaction tax payable on real estate transaction valuing SAR 32,000. The legal texts provide that a preliminary matter that a court should decide before proceeding to the subject matter of case is to verify the capacity of the parties to the case, which the Department rules on its own. In this case, the Department found that the case was filed by someone without capacity. The Department ruled to: Dismiss the case in form for lack of capacity, and the decision is final and enforceable as per Article (42) of the Tax Dispute and Violation Committee Procedures.

Documents:

- Article (76.1) of [the Law of Procedure before Sharia Courts Promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 07/11/2022, The First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and its amendments, and Royal Order No. 13957 of 26/02/1444 AH, convened to consider the case mentioned above.

Facts of this case are as follows: .Mr....., National ID No. in his capacity as Attorney by POA No. For the Plaintiff....., National ID No....., has filed a case against the Defendant, National ID No.... Claiming a refund of the real estate transaction tax payable on a real estate transaction in the amount of SAR 32,000, where the Plaintiff had sold to the Defendant a plot of land in the amount of SAR 640,000 riyals located in the Al Sadfah neighborhood in Dammam. Having presented the statement of claims to the Defendant, the Defendant didn't provide a reply to the Plaintiff's claims. On Monday, 07/11/2022, the session was held in accordance with the remote video litigation procedures, and having called the parties to the case, Ms....., holder of National ID No....., appeared in her capacity as the Plaintiff's attorney under Power of Attorney No. For the Defendant, nobody appeared. Having asked the Plaintiff's attorney who is their opponent, she answered that the case was instituted against Since the case was ready for adjudication, the Department ordered that the video conference room be



temporarily evacuated for deliberation and delivery of its decision. After due deliberation, the Department decided as follows:

Grounds:



Having reviewed the relevant laws and regulations, and since one of the preliminary matters that the Department decides upon before proceeding to the subject matter of the case is to verify the capacity of the parties to the case, which the Department rules on its own, in accordance with Article 76.1 of the Law of Procedure Before Sharia Courts, and having referred to the title deed, it was found that the sale process was not conducted directly with the Defendant, but rather through ... Group as the financier of the Defendant. As the Defendant is not the end consumer, therefore the Plaintiff filed his case against a person with no capacity, and the case is dismissible in form. Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, the Chamber, after deliberation, unanimously decided.

Decision:

Dismiss the case for being filed against a person with no capacity.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Adjudication Committee First Department to Adjudicate Value Added Tax Violation and Disputes in Dammam

Decision No. (Vj-2023-143791)
Delivered in Case No. (R-94451-2022)

Keywords:

Real Estate Transaction Tax - Legal Time Limit - Dismiss the objection in form for submitting the prematurely.

Abstract:

The Plaintiff requested to cancel ZATCA's decision regarding a request for refund of part of the real estate transaction tax in the amount of SAR 46,875 for modifying the amounts of instrument No. ... - The law requires that the objection be submitted within the period calculated from the date of notification. The Department found that the Plaintiff did not submit an objection to ZATCA, and was notified of the imposition of tax at the rate specified by the law on 21/02/2021 AD, and he then brought his case before the Department on 06/02/2022 AD. Accordingly, the Department ruled to: Dismiss the case for being filed prematurely and the decision is final and enforceable as per Article 42 of the Rules of Tax Dispute and Violation Committee Procedures.

Documents:

- Article (2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 25/01/2023, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (13957) dated 26/02/1444 AH convened to consider the case.

The facts of this case are summed up in that Mr....., National ID No..., submitted a statement of claims that included his objection to ZATCA's decision regarding a request to refund part of the real estate transaction tax in the amount of SAR 46,875 for modifying the amounts of Instrument No..... Having presented the statement of claims to the Defendant, it argued that the case is inadmissible in form for being brought before the Department prematurely. On Wednesday, 01/25/2023, the Department held its session in accordance with the remote video litigation procedures, where the Defendant appeared, but the Plaintiff didn't appear despite being notified of the date and type of session. The Defendant was represented by Mr..... in his capacity as ZATCA's representative pursuant to Authorization Letter No. dated .../05/1444 AH issued by the Deputy Governor for Legal Affairs and Compliance. Having presented the Plaintiff claims to the Defendant, he requested to proceed with the case and deliver the decision.



Having considered the case and documents submitted thereunder, since the case is ready for adjudication, and having taken the final statement of the present party to proceed with deliberation.

Grounds:



Having reviewed the relevant laws and regulations; and since hearing this case is conditional upon filing an objection to ZATCA within sixty (60) days from the date of notification, and based on Article 2 of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH; and since the case documents indicate that the Plaintiff did not submit an objection before ZATCA and was notified of the tax charged at the rate specified by the law on 21/02/2021 AD, and instituted this case before the Department on 06/02/2022 AD, and accordingly the case was filed prematurely. Therefore, the case shall be dismissed in form. Based on the foregoing and pursuant to the Common VAT Agreement of GCC States, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Accept the case in form.

This decision was issued in the presence of both parties in accordance with Article 21 of Rules of Tax Dispute and Violation Committee Procedures. The Department has set 30 days for receiving a copy of the decision. However, the Department may extend that time limit for another 30 days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Adjudication Committee First Department to Adjudicate Value Added Tax Violation and Disputes in Dammam

Decision No. (VD-2022-90264)
Delivered in Case No. (R-90264-2022)

Keywords:

Real Estate Transaction Tax - Preliminary matter to decide before proceeding to the case is to verify the capacity of litigants - Case dismissed for being filed against a party without capacity under the case

Abstract:

The Plaintiff instituted his case claiming refund of a real estate transaction tax (RETT) in the amount of SAR 28,000 from the Defendant as the conveyance and sale didn't complete. The law stipulated that that a preliminary matter to verify before proceeding to the subject matter of the case is the capacity of the parties to the case. The Department found that the Plaintiff filed his case requesting recovery of the real estate transaction tax against, and not against ZATCA. Accordingly, the Plaintiff filed his case against a party without capacity under the case. Department ruled to Dismiss the case for being filed against a party without capacity as to its subject matter and the decision is final and enforceable.

Documents:

- Article (76.1) of [the Law of Procedure before Sharia Courts promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday 25/01/2023 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (13957) of 26/02/1444 AH convened.

Facts of the case are summarized that, holder of National ID number (.....), Has brought this action claiming a refund of RETT in the amount of SAR 28,000 due to the incomplete conveyance and sale.

On Wednesday 25/01/2023, the session was held in accordance with the procedures of remote video litigation. Having called the parties to the case, appeared for the Plaintiff Mr....., national ID No., in his capacity as the attorney for the Plaintiff under Power of Attorney No. The Defendant didn't appear or represented in that session. Having asked the Plaintiff's attorney who paid RETT tax to ZATCA, he replied that it was the Plaintiff who paid it. Then he was asked Was a refund requested from ZATCA? He answered "no". When asked if he had anything else to add, he answered "no". Accordingly, the Department order that the video session be evacuated for



deliberation before delivering its decision. After due deliberation, the following decision was issued:

Grounds:



Having reviewed the relevant laws and regulations, and since one of the preliminary matters that are decided upon before proceeding to the subject matter of the case is to verify the capacity of the parties to the case, which the Department decides on its own as per Article 76.1 of the Law of Procedure Before Sharia Law; and having taken cognizance of case file, it was concluded that the Plaintiff instituted his case claiming for a refund of the RETT from the Defendant, rather than ZATCA. Hence this case is found to have been filed against a person without capacity and it is dismissed in form. Based on the foregoing and pursuant to the Common VAT Agreement of GCC States, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

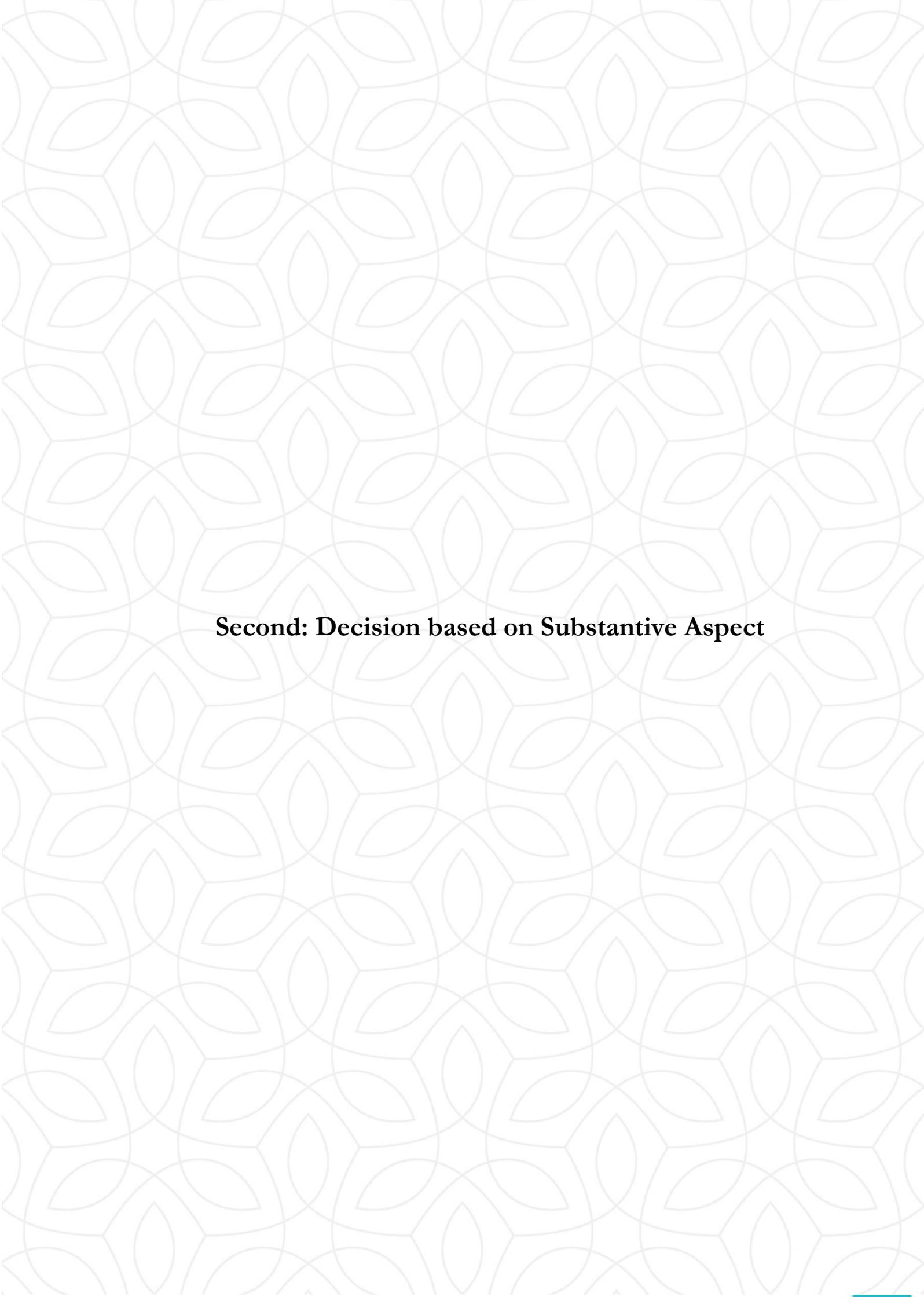
Decision:

- Dismiss the case for being filed against a person without capacity.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set a period of (30) days for the receipt of a copy of the judgment, and the Department may extend the delivery period for another (30) days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Second: Decision based on Substantive Aspect



Adjudication Committee
First Department to Adjudicate Value Added
Tax In Riyadh

Decision No. (VTR-2022-1316)
Delivered in Case No. (R-2021-78827)

Keywords:

Real Estate Transaction Tax – Late Payment Fine – Dismissal based on Merits of Case

Abstract:

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the imposition of a RETT. The Plaintiff based his objection to the RETT imposed by ZATCA on grounds that the conveyance of properties was by way of gift, and also to ZATCA's late payment fine. ZATCA responded that there is a tax payable of the property in dispute and that a real estate transaction took place on 01/08/1442 AH. It also argued that the Real Estate Transaction Tax Regulations then applicable limited gifts to the Second degree relatives, namely the parents and children. The Department established as to RETT that the conveyance was done by way of gift in common, and that it was between brothers and sisters, which is not a kinship that is subject to gifts as stated above. Therefore, the Department concludes to dismiss the case as to this part. As to the plea entered by the Plaintiff, the guardian of the minor that the conveyance didn't entail a tax evasion attempt but it was rather redistribution of the properties, the legislator did not address the intent or outcome, but it rather regulated that matter by only specifying the kinship that is entitled to conveyance of properties as a gift. As to the late payment fine, the fine is associated with the re-assessment evaluation, and therefore it takes the consequent effect. Since the Department found that ZATCA's decision to impose RETT is valid and that the Plaintiff failed to pay the tax withing the specified time limit, it therefore concludes to dismiss the claim for canceling the late payment fine. Accordingly, the Department hereby rules to: accept case in form, and dismiss the case as on merits and the decision is final and enforceable.

Documents:

- Article (3/A/6), (8/C) of [the Implementing Regulations of the Real Estate Transactions Tax issued pursuant to Ministerial Resolution No. \(712\) dated 15/02/1442 AH.](#)
- Article (7.1) of [Implementing Regulations of the Law of Procedure Before Sharia Courts issued by Resolution No. \(4569\) of 03/06/1423 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday 12/06/2022 AD, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh City, convened pursuant to Article (67) of Income Tax law promulgated by Royal Decree No. (M/1) of 3/6/2004 1425 AH.



The facts of this case are summed up in that Mr....., National ID No., in his capacity as guardian of his minor son..... National ID No., instituted this case objecting to the Defendant's decision to impose RETT tax on conveyance of a property as a gift, and the fines imposed in this connection and requesting that ZATCA's decision be abolished.

Having presented these claims to the Defendant ZATCA, it argued that the case was filed prematurely pursuant to Article (2) of Rules of Tax Dispute and Violation Committee Procedures, where ZATCA hadn't yet delivered its decision regarding the Plaintiff's objection. The Defendant's representative concluded his reply requesting that the case be dismissed in form.

The Plaintiff then submitted a replication in which he responded that "with reference to the request for reply to ZATCA's statement regarding the RETT on real estate transaction concluded between brothers, we hereby maintain that was asked at the notary public and entered the information according to the barcode placed by ZATCA at the notary public's entrance and a message was received stating that no tax was due (copy attached). We followed all procedures as per the law, and we have not been told that there is a RETT payable on gifts, and, if any, why did the notary public allowed for the conveyance without paying such tax. We also maintain that we followed all due procedures, and had we been notified that there had been a RETT applicable on that transaction, we wouldn't have modified the titles between the brothers and left the situation as it was. This transaction was between brothers with four deeds. There were no amounts paid among them either. They are even young and do not possess any money in the First place. There was no tax evasion either and all the procedures pursued are valid, and we are not to blame if there is a problem with the website and a message was received that no RETT tax payable... Accordingly, we plead with the Honorable Department to exempt us from that tax, or allow that the deeds return to their original state. The end..

On Wednesday, 18/05/2022, the session held via video conference was opened as per the remote video litigation procedures set out according to Article 15.2 of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the case, Mr.... National ID No. In his capacity as guardian of his minor son....., National Identity No For the Defendant appeared Mr....., a Saudi National, ID No., in his capacity as ZATCA's representative under authorization letter No. Dated .../03/1442 AH issued by the Deputy Governor for Legal Affairs. At the outset of the session, the Plaintiff's attorney claimed that the Defendant's decision was issued against his minor son and that he has four other similar cases for his other sons. He added that he has gave away as gift four plots to his four sons, and that their names were included as the plots were distributed as gifts among them knowing that this procedure doesn't entail RETT tax and it was made with the approval of ZATCA through an SMS, and with the approval of the notary public. Having referred to ZATCA's representative, he stated that his client argues that the case was filed by a person without capacity and prematurely. However, and maintaining the above pleas, the Defendant's representative replied as to the merits of case that there is a tax payable on the property in issue adding that the real estate transaction took place on 08/03/1442 AH, and that the Real Estate Transactions Regulations then applicable limited gifts to Second degree relatives, namely the parents and children. Accordingly, the Department decided to adjourn the case until June 12 at 5 pm, and that the Defendant submit his reply besides the pleas he made before May 25, and if any of the parties fails to appear without reasonable excuse, this will be considered a default according to the provisions of Article 112 of the Law of Procedure Before Sharia Courts.

On Sunday, 12/06/2021, the session held via video conference was opened as per the remote video litigation procedures set out according to Article 15.2 of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the case, Mr.... appeared in his capacity as the guardian of his minor son (Whose details were previously stated), and for the Defendant Mr..... (in his capacity as a representative of ZATCA under the authorization letter (with the details previously stated). At the outset of the session, ZATCA's representative stated that he had a rejoinder that he would like to



submit. The Department reminded that the deadline for submitting his reply was May 25 as per the previous session transcript, and therefore the Department would not accept his rejoinder. ZATCA's representative apologized for delay indicating that his client maintains its formal defenses, arguing that the decision to reject the objection was issued after the case was registered on 09/11/2021 AD. He added that he also upholds his client defense on merits of the case as stated in the previous session transcript. When referring to the Plaintiff's attorney, he claimed that before the redistribution of properties between the Plaintiff and his brothers, he submitted an inquiry to ZATCA, which replied with a message that no tax applied, and acting on that basis, the conveyance was made. Having asked the parties to the case if they had any other statements to add, they answered "no". Therefore, the Department decided to adjourn the session for deliberation, in preparation for delivering its decision.

Grounds:

After due examination, and having taken cognizance of the case papers, and reviewed the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) of 03/05/1438 AH, the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH and the relevant laws, regulations and decisions, the Department concluded that:

In Form: The Plaintiff objects to the Defendant's decision to impose a RETT tax on a real estate gift and the related fines based on the Value Added Tax Law and its Implementing Regulations. Since this dispute fall within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations as per Royal Decree No. (M/113) of 02/11/1438 AH; and since the case was filed by a person with capacity, who is the guardian of his minor son, and although the decision was against the son, the father has full guardianship over him that entitles him to institute the case; and as for the plea entered by ZATCA that the objection was after the case was registered, the Department adopts the opinion of the appeal departments as to easing restrictions on accepting case as appropriate; therefore, this case is accepted in form.

On Merits: Having considered the case papers, heard the parties and given them ample time to provide their claims and pleas, the Department found that the Defendant delivered its decision regarding the imposition of a RETT tax resulting from a real estate gift together with the related fine. It was established that:

First: The Plaintiff's guardian objects to the imposition of a RETT tax on the conveyance of the properties in issue, since they were conveyed by way of gift, and the Plaintiff submitted to the Defendant the conveyance deeds, which are Deed No..... dated 01/08/1442 AH, and Deed No. dated 01/08/1442 AH, and Deed No. dated 01/08/1442 AH. The Defendant's representative argued that the tax was payable on the properties in question, and that the real estate transaction was on 01/08/1442 AH, and the real estate transactions regulations then applicable limited the gifts to Second degree relatives, namely ancestors and descendants. The Department also concluded that the conveyance was by way of gift in common on 01/08/1442 AH, corresponding to 14/03/2021 AD as per the submitted deeds. The date of conveyance and the laws then applicable indicate that the gift was limited to Second degree relatives according to Paragraph (a/6) of Article (3) of the Real Estate Transactions Regulations which stipulated that: "A. The following cases shall be excluded, in full or part, from the RETT application scope: 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." Article (7.1) of the Implementing Regulations of Law of Procedure before Sharia Courts stipulates that: "Relatives up



to the Fourth degree are: First degree: Fathers, mothers, grandfathers, grandmothers, and their ancestors. Second degree: Children, and their children, and their descendants. Third degree: Brothers and sisters, siblings, or paternal or maternal siblings, and their children, and their children's children...”, and since the conveyance was between brothers and sisters, which is a kinship that is not exempted from tax as stated above, the Department rules to dismiss this claim. As for the argument submitted by the guardian of the minor that the conveyance didn't entail a tax evasion attempt but it was rather redistribution of the properties, the legislator did not address the intent or outcome, but it rather regulated that matter by only specifying the kinship that is entitled to conveyance of properties as a gift. Hence, the law has to be applied

Second: As for the late payment fine, Since the fine was a result of re-assessment and imposition of RETT, it is therefore a consequence of the re-assessment that should take the same effect. As the First part of decision was valid, and the RETT was not paid in its due date as per Article 8 (c) of the Real Estate Transactions Regulations, which provides that: “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: c- A person who does not pay the RETT due within the period specified by law shall be liable to 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.”, the Department hereby dismiss the Plaintiff's claim in this regard In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: To Accept case in form.

Second: To dismiss the Plaintiff case.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Judgment has become final because disputed amount is less than SAR 50 (fifty thousand riyals) pursuant to Article 33.1 of Tax Dispute and Violation Committee Procedures of Zakat, Tax and Customs Committees.



Adjudication Committee
First Department to Adjudicate Value Added
Tax In Jeddah

Decision No. (VJ-2022-1557)
Delivered in Case No. (R-2021-88758)

Keywords:

Real Estate Transactions Law - Real Estate Financing - Value Added Tax - Exemption for the First Home - Case Accepted on Merits

Abstract:

The Plaintiff brought his case claiming that the Defendant pays the RETT tax resulting from the sale of a property, as the Plaintiff purchased a property from the Defendant through real estate financing fromBank - The Plaintiff based his objection on grounds that he paid the tax twice to the Defendant as per Receipt No. dated 03/08/2019 and toBank as per invoice no. dated 12/01/2020. The Defendant acknowledged that a tax was imposed and paid to ZATCA based on Value Added Tax Law and its Implementing Regulations. The Department determined that there is no direct transaction between the Plaintiff and the Defendant, and the Plaintiff should have not paid the tax. The Defendant charged a tax to the Plaintiff based on its acknowledgment and as per Receipt No., despite the absence of a direct transaction as shown in the sale invoice issued byBank. The Plaintiff's case is among the cases that are subject to the Royal Decree, which stipulates that the government will bear the VAT on behalf of Saudi Citizens for the purchase of their First home. Accordingly, the Department concluded to accept the Plaintiff's case, and ruled as follows: Accept the case in form and on merits and its decision is final and enforceable.

Documents:

- Articles (1), (30/1), (40/1) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. 51 dated 03/05/1438 AH.](#)
- Article 2 of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Article (14) of [the Implementing Regulations of Value Added Tax Law issued pursuant to the decision of the Board of Directors of the General Authority of Zakat and Tax \(Currently TCA\) No. \(3839\) dated 14/12/1438 AH.](#)
- [Royal Decree \(A/86\) issued on 04/18/1439 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday 20/07/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened pursuant to Article (67) of Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.



The facts of this case are summed up in that Mr....., National ID No....., acting on his own behalf submitted a statement of claims whereby he requested that the Defendant....., National ID No..... pays a RETT tax in the amount of SAR 27,500.00 for the sale of a property.

On 05/29/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article 15.2 of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the case, neither the Plaintiff nor his representative appeared despite being duly notified of the date of the session, and accordingly the Department unanimously decided to non-suit the case, in accordance with the provisions of Article 20 of Rules of Tax Dispute and Violation Committee Procedures.

On 31/05/2022, the Plaintiff submitted a request to reopen the Case.

On Wednesday, 20/07/2022, The First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its session remotely in accordance with the remote video litigation procedures pursuant to the provisions of Article 15.2 of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH.

Having called the parties to the case, the Plaintiff, a Saudi national, holder of National ID No. Appeared acting on his own capacity. The Defendant was not represented in that session despite being duly notified. Having asked the Plaintiff about his claims, he maintained his claims submitted in the statements of claims submitted to the General Secretariat of the Zakat, Tax and Customs Committees. Then, the Department, having considered the case file, decided to adjourn the case for deliberation, in preparation for delivering its decision.

Grounds:

After due examination, and having taken cognizance of the case papers, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, the Common VAT Agreement of GCC States and the relevant laws, regulations and decisions.

In Form: Since the Plaintiff filed his case claiming that the Defendant pays the VAT tax; and given that this dispute falls within the jurisdiction of the Committee for Settlement of Income Tax Violations and Disputes as per Royal Order No. (26040) of 21/04/1441 AH, and since the case was filed by a person with capacity under the case and within the prescribed time limit, it is then accepted in form.

On Merits: Having examined the case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to: The Plaintiff's request for recovering a VAT tax in the amount of SAR 70,087 payable on a purchase of a property valued at SAR 1,401,750 from the Defendant through real estate financing byBank on 03/12/1440 AH corresponding to 04/08/2019 AD. Royal Order No. (A/86) stipulated that: "Eighth: The government will bear the VAT on behalf of Saudi Citizens for the purchase of their First home up to the amount of SAR 42,500 (5% VAT on SAR 850,000)" Moreover, Article 1 of Common VAT Agreement of GCC States defined "Taxable Supplies" as: "Supplies on which Tax is Charged in accordance with the provisions of the Agreement, whether at the standard rate or at the zero rate, and for which associated input tax is deducted in accordance with the provisions of the Agreement." Article (2) of the Saudi Value Added Tax Law also provides that: "Tax shall be imposed on the import and supply of goods and services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." While Article 30.1 of the Common VAT Agreement of GCC States stipulates that: "Each Member State may exclude



the following categories from paying tax upon receipt of goods and services in that State, and each Member State may allow these persons to reclaim the tax borne upon receipt of the goods and services, in accordance with the conditions and rules determined by that Member State. These categories include: Government bodies specified by each State

Charities and Public Benefit Establishments specified by each State;

Exempted companies under international event hosting agreements;

Citizens of the Member State when constructing their homes for private use; and

Farmers and fishermen who are not registered for Tax.” Article 40.1 of the Common Agreement

also states that: “1. The Taxable Person is obligated to pay Tax due on taxable supplies of Goods and Services to the Competent Tax administration in the Member State in which the place of supply is located.” Additionally, Article 14 of the Implementing Regulations of VAT Tax Law

stated that: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom..”

Since the Plaintiff claims for a recovery of a VAT tax in the amount of SAR 27,500.00 imposed on the purchase of a property valuing SAR 1,401,750 from the Defendant through real estate financing byBank as per Instrument No. dated 03/12/1440 AH, corresponding to 04/08/2019 AD, claiming that he has paid the tax twice to the Defendant as per Receipt No. dated 12/02/1440 AH corresponding to 03/08/2019 AD and toBank as per Invoice No..... dated 12/01/2020 AD. By reviewing the Defendant's reply, we found that it acknowledged the imposition of the tax and payment of the same to ZATCA according to the Value Added Tax Law and its Implementing Regulations; and since the burden of paying the tax falls with the consumer or buyer (the recipient of the goods and services) as an indirect tax on the goods and services he receives, except as may be exempted by law in certain cases covered by Article (30) of the Common VAT Agreement for GCC States and Royal Order No. (A/86). Having examined the case facts, it was established that the Plaintiff have purchased a property frombank. through real estate financing, and there is no direct supply relationship between Plaintiff and Defendant. Therefore, Defendant has no right to impose a tax on Plaintiff, since the supply relationship was established between Defendant and Bank (Buyer), who has the right to impose an indirect tax, especially since it is registered under No. (.....) on (06/01/2019 AD) and its effective date (01/06/2018 AD) as mentioned in the attached certificate. Therefore, it shall be effective at the time of transfer. Based on the above, Defendant imposed a tax on Plaintiff based on its declaration and payment receipt No. (...) despite lack of direct supply. In accordance with sales invoice issued byBank, Plaintiff case is covered by Royal Decree (A/86) issued on 18/04/1439 AH, which provided that State bears instead of citizens the VAT amount of (SAR 42.500) for the First residence. Therefore, the Department accepted Plaintiff claim.

Based on the foregoing and in accordance with the provisions of Common VAT Agreement, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided as follows:

Decision:

- Accept the claim of Plaintiff, Mr....., holder of National ID No. (...), and obligate Defendant,, holder of National ID No. (...), to pay the amount of (SAR 27,587) twenty-seven thousand, five hundred and eighty-seven riyals, which is the remaining VAT value imposed on real estate supply, subject matter of the claim and due to Plaintiff.

This decision was issued in the presence of both litigants. The Department has set a period of (30) days for the receipt of a copy of the judgment, and the Department may extend the delivery period



for another (30) days as it deems appropriate. This decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Judgment has become final because disputed amount is less than SAR 50,000 (fifty thousand riyals) pursuant to Article 33.1 of Tax Dispute and Violation Committee Procedures of Zakat, Tax and Customs Committees.



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1477)
Delivered in Case No. (V-2021-86928)

Keywords:

RETT - Tax refund - Real estate sale - First Residence Exemption Certificate - Accept Case on merits.

Abstract:

Plaintiff requested Defendant (..... Bank) to refund RETT. Plaintiff raised its objection based on the following grounds: Defendant benefit from the citizen First residence exemption certificate, collection of tax imposed on sale retroactively on 01/04/2018 AD, and collection of tax by the Bank, as the financier and a party in the sale transaction. The Department was satisfied that Defendant submitted a tax declaration form for the tax period (Third quarter of 2018), which is irrelevant to the disputed period, in which it disclosed sales in the amount of (SAR 15,000,000). Accordingly, the Department accepted Plaintiff claim to obligate Defendant (..... Bank) to pay due VAT imposed the sale in accordance with the sale deed. The Department ruled to: accept Case in form and merits, and consider its decision as final and enforceable.

Documents:

- Article (67/8) of [Income Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/06/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, met.

The facts of this Case are summed up so as... holder of ID No (.....), on his own behalf, submitted a statement of claim against Bank, CR No. (.....), for the purpose of obligating Defendant to refund RETT with the amount of (SAR 42.500) imposed on a real estate sale transaction. When presetting Plaintiff statement of claim to Defendant attorney, he presented a Reply of three pages. Plaintiff also submitted a Replication, which was also reviewed by the Department.

On Monday, 27/06/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article (15.2) of Tax Dispute Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling litigants, Mr..... (Saudi National), holder of National ID No. (.....) attended the session in his



capacity as Plaintiff, and Mr..... (Saudi National), holder of National ID No. (.....) attended the session in his capacity as attorney of Defendant, under POA No. (.....). When asking Plaintiff about his claim, he responded in accordance with his statements mentioned in the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed all statements mentioned therein. When asking Defendant attorney about his Reply, he affirmed all statements mentioned therein. When asking both litigants if they had any other statements to add, they decided that they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds:

In light of Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) dated 06/11/1425 AH, as amended, after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued by Royal Decree No. (26040) dated 21/04/1441 AH, side by side with related laws and regulations.

In Form: In accordance with Case file, Plaintiff filed his Case via the electronic portal on 19/12/2021 AD, and the due date of the claimed amount was 04/07/2021 AD. Therefore, the Case was filed during the statutory period stipulated in Article (67.8) of Income Tax Law amended by Royal Decree No. (M/113), which provides that: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Therefore, the Case has satisfied all formal requirements, and shall be accepted in form.

On Merits: When the Department reviewed the Case papers and litigant replies after giving them the sufficient period for expressing and submitting their statements and documents, the Department concluded the dispute centered around Plaintiff objection to Defendant benefit from the citizen first residence exemption certificate, collection of tax on the sale transaction with the amount of (SAR 42,500), which was registered retroactively on 01/04/2018 AD, and collection of the due tax amount by the Bank, as the financer and a party to the transaction sale. It was evidenced that Plaintiff registration was effective on 01/04/2018 AD in accordance with the registration certificate, and Plaintiff was requested by ZATCA to pay the tax due for the identified period, noting that it was not clear whether Plaintiff disclosed the sale in accordance with his tax declaration for the period, as he submitted the tax declaration for the tax period (third quarter 2018), which is irrelevant to the disputed period, in which he disclosed sales with the amount of (SAR 15,000,000). Therefore, based on all the above-mentioned grounds, the Department was satisfied to accept Plaintiff claim and obligate Defendant (.....Bank) to pay due VAT imposed the sale in accordance with the sale deed.

Based on the foregoing and in accordance with the provisions of the Common VAT Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided as follows:

Decision:

- Accept Plaintiff claim\, holder of ID No. (.....), and obligate Defendant/ Bank, CR No. (.....), to pay the tax amount of (SAR 42,500) forty-two thousand and five hundred riyals, which is the tax value due to Plaintiff for the real estate supply, subject matter to the Case.

This decision was issued in presence of both litigants in accordance with Article (21) of Rules of Tax Dispute and Violation Committee Procedures. The Department has set a period of 30 days for receiving a copy of the decision, and this period may extend to another 30 days as it deems



appropriate. This decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes In Jeddah

Decision No. (VJ-2021-1527)
Delivered in Case No. (V-2021-66885)

Keywords:

RETT - Real estate sale - First Residence Exemption Certificate - Accept Case in form.

Abstract:

Plaintiff claimed payment of (SAR 25,000) as RETT imposed on the sale of a real estate. Plaintiff grounded its objection on the following: the imposed tax resulted from a real estate supply transaction with the amount of (SAR 1.500.000) to First Defendant (a customer ofBank). The Department has become clear that Bank, as purchaser of a real estate owned by Plaintiff, collected tax exemption amount in accordance with First residence exemption certificate. The Department was satisfied that the Bank shall join the Case. Since it turned out that Plaintiff has the right to claim Bank, who joined the Case, to pay the tax amount, subject matter of the Case, the Department accepted Plaintiff Case against Second Defendant (.....Bank) and obligated it to pay the tax amount of (SAR 25,000) to Plaintiff against the real estate supply, subject matter of this Case. The Department ruled to: accept Case filed against Second Defendant (the Bank) in merits and form, and reject Case filed against First Defendant. This decision shall be deemed final and enforceable.

Documents:

- Articles (5/1), (23/1), and (40/1) of [Common VAT Agreement of GCC States issued by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (1), (2), (4), and (5/1) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/02/1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 18/07/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, met.

The facts of this Case are summed up as follows: Mr....., holder of National ID No. (....) on his own behalf, submitted a statement of claim, which included a demand to obligate Defendant/ Mr....., Holder of National ID No (...) to pay the amount of (SAR 25,000.00) as RETT imposed on real estate sale transaction dated 12/03/1442 AH, corresponding to 29/10/2020 AD.



On Monday, 18/07/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its first session remotely in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When calling both litigants, Mr....., (Saudi National), under National ID No. (...) attended in his capacity as Plaintiff attorney, under POA No. (...), and attorney of Defendant joining the Case did not attend despite being informed of session date. The Department reviewed Case file and confirmed Case validity for adjudication in accordance provisions of Article (20) of Tax Dispute and Violation Committee Procedures, and accordingly, decided to adjourn the session in preparation for issuing the decision.

Grounds:

After reviewing Case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations.

In Form: Since Plaintiff filed his Case to request that Defendant to pay VAT amount, and since this dispute falls within the jurisdiction of Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: Having examined the Case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to the following: Plaintiff requested First Defendant to pay RETT with the amount of (SAR 25.000) imposed on a real estate supply in exchange for (SAR 1,500.000) on (12/03/1442 AH) corresponding to (29/10/2020 AD) to First Defendant, customer of Bank. Royal Order No. (A/84) indicates that: “5. State will bear the tax on real estate valued of up to SAR1m for a Saudi citizen purchasing their First home. Minister of Finance, Chairman of the Board of ZATCA, shall approve all necessary controls and procedures in this regard.” Article (1) of RETT Implementing Regulations stipulates that: “RETT: Financial amount imposed on real estate transaction. 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. Article (2) of RETT Implementing Regulations stipulates that: "A tax at a rate of 5% (five percent) of the total value of real estate transaction value shall be imposed, regardless of 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 (4) of RETT Implementing Regulations stipulates that: “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”. Article No. (5.1) of RETT Implementing Regulations stated that: “The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom.” After reviewing all documents attached to Case file by the Department, it turned out that Plaintiff supplied the real estate, subject matter of this Case, to Bank, in its capacity as financier of First Defendant. Plaintiff sold the real estate to Bank through a real estate supply transaction, this requires imposing RETT on total real estate transaction amount to be collected from the disposing person in accordance with Articles (2) and (5) of RETT Implementing Regulations. Bank, in its capacity as the financing party is obligated to pay RETT amount, subject matter of this Case, in accordance with Articles (5.1), (23.1), and (40.1) of Common VAT Agreement of GCC States. The Department became clear that Bank, as purchaser of the real estate owned by Plaintiff, collected tax exemption amount in accordance with First residence exemption certificate. The Department was also satisfied that the Bank shall join the Case in accordance with Article (80) of Law of Civil Procedure. Since it turned out that Plaintiff has the right to claim Bank, who joined the Case, to pay the tax amount, subject matter of the Case, the Department accepted Plaintiff Case against Second Defendant joining the Case (.....Bank) and obligated it to pay the tax amount of (SAR 25,000) to Plaintiff, which represents the tax amount due to Plaintiff for the real estate supply, subject matter of Case.

Based on the foregoing and in accordance with the provisions of Common VAT Agreement of GCC States, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided as follows:

Decision:

First: Cancel the Case filed by Plaintiff against Defendant due to lack of capacity.

Second: Accept the Case filed by Plaintiff against Second Defendant joining the Case (..... Bank) and obligate it to pay the tax amount of (SAR 25,000) twenty-five thousand riyals to Plaintiff against the real estate supply, subject matter of this Case.

The decision was issued in the presence of both litigants in accordance with Article (21) of Tax Dispute and Violation Committee Procedures. The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1233)
Delivered in Case No. (V-79488-2021)

Keywords:

RETT - Real estate reassessment - Real estate supplies - Late payment fine - Accept the Case in form.

Abstract:

Plaintiff requested cancellation of ZATCA decision regarding real estate reassessment, imposing RETT of SAR (SAR 79,560), and imposing a late payment fine. Plaintiff filed his Case on the basis that the real estate was given as a gift rather than a sale. ZATCA responded that a (5%) tax of the total transaction value shall be imposed, regardless of real estate condition, form, or use at the time of transaction, and that disposal of real estate as a gift shall not exceed a quarter of the testator estate. After real estate reassessment, the Department was satisfied that the average land price was higher than the amount disclosed by Plaintiff; therefore, ZATCA due tax amount was amended and a late payment fine was imposed. Furthermore, the Case file has no evidence supporting the claim that the real estate was given as a gift rather than a sale. The Department accepted the Case in form, and rejected the Plaintiff Case requesting cancelation of ZATCA decision with regard to imposing a real estate supplies' tax with the amount of (SAR 79.560). The decision is final and enforceable.

Documents:

- Articles (2) and (3/6) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/02/1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 19/09/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh was formed pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, for the purpose of considering the abovementioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of the Zakat, Tax and Customs Committees on 26/10/2021 AD.

The facts of this Case are summarized as follows: Mr....., holder of National ID No. (...), on his own behalf, submitted a statement of claim challenging ZATCA decision with regard to reassessment of the relevant real estate and imposing RETT with the amount of (SAR 79,560), and requested cancellation of Defendant decision.



Upon presenting the statement of claim to Defendant, ZATCA replied to Plaintiff objection as follows: After ZATCA reassessment of real estate contested by Plaintiff, it turned out that the disclosed amount is less than the real estate market value. After reviewing data registered by MoJ, it turned out that the average land price is higher than the amount disclosed by Plaintiff to ZATCA. Therefore, due tax was amended pursuant to Article (5.1) of RETT Implementing Regulations. A late payment fine was imposed pursuant to Article (8.C) of RETT Implementing Regulations after reassessment of the relevant real estate and the consequent amendment to tax amount due to ZATCA. ZATCA concluded its Reply with a request to dismiss the Case.

On Monday, 08/08/2022, the Department held its First session via video conference to consider the Case filed by Mr....., holder of National ID No. (...), against ZATCA. Upon calling both litigants, Plaintiff attended personally, and Mr....., holder of National ID No. (...), attended in his capacity as a representative of ZATCA, by virtue of Authorization No. (.....) issued by ZATCA. After verifying attendance of both litigants, displaying their national ID cards using a magnifying window, and verifying the capacity of both litigants, the Department decided to proceed with Case consideration. Plaintiff requested cancellation of ZATCA decision regarding imposition of RETT with the amount of (SAR 79,560) as detailed in statement of claim. When ZATCA representative was asked about his response, he confirmed the validity of ZATCA decision based on details mentioned in Reply submitted in response to Plaintiff lawsuit. When asking both litigants if they have anything else to add, Plaintiff said that he gave up the land for his wife as a gift, and did not find an icon for registering the gift, so he entered the sale value of (SAR 1000), and asked for a grace period to recourse Notary Public and try to register the gift. Accordingly, after deliberation, the Department decided to respond to Plaintiff request, give him two weeks to submit the required documents, provided that ZATCA representative shall be provided with a copy thereof so that he may respond to its sole discretion, and adjourn Case consideration until Monday, 19/09/2022.

On Monday, 19/09/2022 AD, the Department held its Second session via video conference to consider the Case filed by Mr....., holder of National ID No. (...), against ZATCA. Upon calling both litigants, Plaintiff attended personally, and Mr....., holder of National ID No. (...), attended in his capacity as ZATCA representative by virtue of Authorization No. (.....) issued by ZATCA. After verifying attendance of both litigants, displaying their national ID cards using a magnifying window, and verifying their capacity, the Department decided to proceed with Case consideration. When asking Plaintiff about requested documents for which he was granted the grace period within the last session, he said that the notary public refused to give him any document proving that the land was given as a gift rather than a sale. So, he did not provide any further documents. When ZATCA was asked if there anything to add, it responded that there is no further information. As such, after discussion, the Department decided to close pleadings and adjourn the session for deliberation and issuance of decision

Facts:

Having reviewed and verified Case documents, having perused the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, pursuant to Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and Common VAT Agreement of GCC States, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed its Case to request cancellation of Defendant decision with regard to real estate reassessment based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of



Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the Case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: After reviewing full Case file side by side with all defenses contained therein, it became clear to the Department that this dispute is about Plaintiff objection to Defendant decision with regard to reassessment of the relevant real estate and imposing RETT of (SAR 79,560) as a result of transferring real estate ownership by Plaintiff to his wife as a gift. After reviewing Case file by the Department, it concluded that Plaintiff did not provide any evidence confirming that the real estate was given as a gift. Whereas, Article (2) of RETT Implementing Regulations provides that: “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.”, and Article (3) RETT Implementing Regulations provides that: “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”. Therefore, the Department dismissed Plaintiff Case.

Decision:

First: Accept the Case in form.

Second: On Merits: Dismiss the Case filed by Plaintiff, Mr....., holder of National ID No. (...), to cancel ZATCA decision with regard to imposing RETT of (SAR 79,560).

This decision was issued in the presence of both litigants, and the Department set a thirty days’ period for receiving a copy of the decision, and may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1583)
Delivered in Case No. (R-75488-2021)

Keywords:

RETT - Late payment fine - Responsibility of tax supply is held by depositing person.

Abstract:

Plaintiff requested cancellation of ZATCA decision with regard to imposing RETT and a late payment fine. ZATCA responded that it had exercised the authority entrusted thereto, since the exception is limited to relatives up to the second degree and since the real estate disposal was performed between two siblings, which makes it impossible to apply such exception. It is legally established that a Case shall be accepted in form if filed by a person with capacity and within the legally prescribed period. The Department was satisfied that the responsibility of tax supply is held by the disposing person and not the Notary Public; therefore, the gift given by Plaintiff to his sibling is subject to disposal of real estate to a relative up to the second degree. Since Defendant did not explain the grounds and methods upon which assessment of the relevant land price was made and did not provide any evidence supporting such assessment, since the First Clause supported Defendant decision, and since the late payment fine was imposed thereby, the resulting occurrence shall take the same effect.” The Department ruled to Accept the Case in form, dismiss Plaintiff Case, and consider decision as final and enforceable.

Documents:

- Article (7/1) of [Implementing Regulations of Law of Civil Procedure issued by Minister of Justice Decision No. \(39933\) dated 19/05/1435 AH.](#)
- Articles (2), (3/6), (8), (6/1, 2) and (8/C) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 04/01/1444 AH, corresponding to 02/08/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, was formed pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (65474) dated 23/12/1439 AH, for the purpose of considering the abovementioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 13/10/2021 AD.



The facts of this Case are summarized as follows: Mr....., holder of National ID No. (...), submitted a statement of claim challenging Defendant decision with regard to imposing RETT and a late payment fine, and requesting cancellation of the same.

Having presented the statement of claim to Defendant, it responded as follows: First: On Merits:-
1. With regard to RETT: ZATCA exercised authority entrusted thereto under Article (6) of RETT Implementing Regulations. Plaintiff requested that real estate transaction under consideration be dealt as an exception Case exempted from RETT, as provided by Article (3.6) of RETT Implementing Regulations. Since such exception is only applicable to real estate disposal to relatives up to the second degree, and the real estate disposal under consideration was performed between two siblings, the exception cannot be applied, as siblings' relationship of falls under the third kinship degree, as provided by Article (7/1) of Implementing Regulations of Law of Civil Procedure. 2. Regarding late payment fine: After reviewing Plaintiff declaration, ZATCA was satisfied that such declaration was inaccurate. As a result, such declaration shall be amended and a reassessment notice shall be issued. Accordingly, there was a difference in the due tax value, which was not paid on the prescribed date. Therefore, a late payment fine was imposed for the months following the relevant real estate transaction as explained hereabove, in accordance with Article (8) of RETT Implementing Regulations. Defendant representative concluded his Reply with requesting dismissal of the Case. End of response.

On Tuesday, 02/08/2022 AD, a session was held in accordance with Procedures for Remote Litigation based on both litigants' request to consider the Case. Mr....., holder National ID number (...), attended the session in his own behalf as Plaintiff, and Mr....., Holder of National Identity No (...) also attended the session, in his capacity as ZATCA representative, by virtue of Authorization No. (.....) dated (.....) issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about the Case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax, and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his Reply deposited in the Case file. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions.

Therefore, the Department decided to dismiss both litigants for deliberation and issuance of decision.

Grounds:

Having reviewed and verified Case documents, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, pursuant to Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and Common VAT Agreement of GCC States, as well as other relevant laws and regulations.

In form, since Plaintiff filed this Case for the purpose of cancelling Defendant decision with regard to imposing RETT and a late payment fine in accordance with Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax disputes, it falls within the jurisdiction of Committee for Resolution of Tax Violations and Disputes, pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and since the Case was filed by a person with capacity and within prescribed statutory period, the Department must accept the Case in form.

On merits, upon reviewing the Case files and responses of both litigants, having granted the sufficient time to express and submit all statements and documents with regard to RETT, it became clear that the dispute is about Plaintiff objection to Defendant decision to impose RETT on the transfer of real estate (a land) as a gift to his sibling. Whereas Article (2) of RETT Implementing Regulations provides that: "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.”, and also Paragraph (A/6) of Article (3) of RETT Implementing Regulations stipulates that: “The following Cases shall be excluded, in full or part, from the RETT application scope: 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.”.

After reviewing the entire Case file and all defenses contained therein, it became clear that Plaintiff challenged Defendant decision to impose RETT on the real estate (a land) transferred to his sibling. Plaintiff stated in his statement of claim that he challenges Defendant decision because he was not notified of the decision of RETT imposed on the gift transferred to his sibling and issued by the Notary Public. Upon reviewing the Defendant reply, it was declared that, in accordance with RETT Implementing Regulations, the land transfer as a gift to Plaintiff sibling is subject to RETT and does not fall within the exception mentioned in Article (3.6) of RETT Implementing Regulations. Based on powers entrusted to ZATCA in accordance with Article (6.2) of RETT Implementing Regulations, ZATCA reassessed the value of real estate and transactions performed thereon and declared by Plaintiff and verified whether the exception mentioned in Article (6.2) of RETT Implementing Regulations applies to Plaintiff transactions. It turned out that the exception of the mentioned Article did not apply to Plaintiff transactions; therefore, the transaction value shall be subject to RETT. The RETT Implementing Regulations clearly explain the Cases that are exempted from RETT and the extent to which they are subject to real estate supplies. Moreover, the responsibility of supplying taxes shall be held by the disposing person rather than the Notary Public; therefore, the land gift given by Plaintiff to his sibling shall be subject to RETT, as the exception is limited to disposal of real estate to relatives up to the Second degree. Plaintiff also requested that the land value estimated by Defendant should not be considered because it differs from the actual land value, and attached in his Case file the pre-transfer land title deed No. (.....), with the amount of (SAR 150.000), dated 09/06/1441 AH, corresponding to 03/02/2020 AD. Moreover, Defendant did not clarify the grounds and methods upon which the relevant land was assessed with the amount of (SAR 633.326), and failed to provide any evidence supporting the validity of its assessment, such as a statement of land sales issued by MoJ and explaining prices of lands located in the same plan No. (.....), Al-Khobar, Riyadh, taking into account the land geographical location, advantages, and disadvantages, which affect the land sale price among independent parties.

With regard to the late payment fine, since Article (8.C) of RETT Implementing Regulations provides that: “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: 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.”

After reviewing the entire Case file and all defenses contained therein, it became clear that Plaintiff requested cancellation of the late payment fine imposed as a result of the real estate transaction related to the land owned by him. Since the Department supported Defendant decision in the First Clause and the late payment fine resulted therefrom; therefore, the related matters shall have the same force and effect, and the Department supports Defendant decision regarding the value of the late payment fine in accordance with Article (8.C) of RETT Implementing Regulations.

Based on the foregoing and pursuant to the provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided as follows:

Decision:



- Dismiss Plaintiff Case.

This decision was issued in the presence of both litigants, and the Department set a thirty-day period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VTR-2022-1550)
Delivered in Case No. (R-78792-2021)

Keywords:

RETT - VAT - Non-entitlement to Tax Exemption Certificate - Real Estate Supply - Transfer of obligation.

Abstract:

Plaintiff requested Defendant to pay the amount of (SAR 18,650.35) as the value of VAT imposed on a real estate supply with the amount of (SAR 695.625). Defendant responded that Plaintiff was not entitled to have a tax exemption certificate because he sold the real estate to the Bank, and then the Bank sold the same to the client. Moreover, the Bank does not give a tax exemption certificate to anyone selling real estate because it is not entitled to do the same. The Department was satisfied that Defendant failed to provide any evidence of payment of the VAT imposed on it or transfer of such obligation. Therefore, the Department ruled to: Accept the Case in form and obligate Defendant to pay Plaintiff the amount of (SAR 18,650.35). This decision shall be deemed final and enforceable.

Documents:

- Article (2) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (67/A/1) and (67/8) of [Income Tax Law amended by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (14) of [Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of Zakat, Tax and Customs Authority No. \(3839\) dated 14/12/1438 AH.](#)
- [Articles \(1\) and \(2\) of Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 07/09/2022 AD, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh was formed pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, for the purpose of considering the abovementioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees on 24/10/2021 AD.



The facts of this Case are summarized as follows: Mr....., holder of ID No....., acting on his own capacity as Plaintiff, has filed a statement of claims requesting Defendant, company, CR No. (...), to pay the amount of (SAR 18,650.35) as a VAT imposed as on a real estate supply transaction with the amount of (SAR 695,625).

Upon presenting the statement of claims to Defendant, its Attorney submitted a Reply, which could be summarized as follows: Tax exemption certificate is granted only to entitled persons, not applicants. Plaintiff raised an objection regarding withdrawal of the tax exemption certificate given to the Bank client who purchased the real estate from the Bank not from Plaintiff. Plaintiff request shall be rejected, as he is not entitled to the tax exemption certificate because he sold the real estate to the Bank and then the Bank sold the same to the client. Moreover, the Bank does not give a tax exemption certificate to any person selling real estate because it is not entitled to do the same. The sale date was earlier than the effective registration date, as the real estate was sold on April....., 2020, which is prior to tax registration effective date, as Plaintiff registered on .../06/2020 AD. The Reply was concluded with a request to dismiss the Case.

On Sunday, 22/05/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr..... (..... National), under POA No. (...), holder of National Identity No. (...) attended in his capacity as attorney of Defendant, Company, and neither Plaintiff nor his attorney appeared or attended the session, despite being legally notified of the session date. Therefore, the Department unanimously resolved to dismiss the Case in accordance with Article (20) of Tax Dispute and Violation Committee Procedures.

On 23/05/2022, Plaintiff submitted a request to reopen the Case.

On Wednesday, 07/09/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling litigants, Plaintiff attended in his own behalf, and Mr....., (.... National), under POA No. (...), holder of National ID No (...), attended in his capacity as attorney of Defendant. Having asked Plaintiff about his Case, he maintained his statements contained in the statement of claims submitted to the General Secretariat of Zakat, Tax and Customs Committees. Having asked the Defendant attorney about his reply, he maintained the answers contained in his Reply. When both litigants were asked if they had any other statements, they answered no, settling for their petitions that had been submitted. Accordingly, the Department decided to adjourn the session for deliberation before issuing decision.

Grounds:



The Department considered the Case after reviewing and verifying Case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations:

In Form, Since Plaintiff filed a Case for the purpose of obligating Defendant to pay the VAT amount imposed as a result of a real estate supply transaction; therefore, this Case falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Articles (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Article (1): “Approval of the Value Added Tax Law” and in Article (2): “The competent judicial authority



stipulated by this Law shall form the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1.a) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: A. Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and regulations, as well as the decisions and directives related thereto". As established in the Case file, Plaintiff filed the Case through the electronic portal on 24/10/2021 AD and the due payment date of the claimed amount is 22/04/2020 AD, corresponding to 29/08/1441 AH; therefore, the Case was filed within the period prescribed by Law in Article (67.8) of the Income Tax Law as amended by Royal Decree No. (M/113), which stipulates that: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Accordingly, the Case has satisfied all formal requirements, and shall be accepted in form.

On Merits, upon reviewing Case files and litigants replies, having granted sufficient time to express and submit all statements and documents, the Department was satisfied that the dispute lies in Plaintiff demand that Defendant pay the VAT amount of (SAR 18,650.35) imposed as a result of performing a real estate supply process with the amount of (SAR 695,625), in accordance with deed No. (.....). Article (2) of Value Added Tax Law stipulates that: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." and Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." It is established that the customer/buyer (beneficiary of goods or services) is responsible for paying the due tax as an indirect tax. The competent authority responsible for collecting tax issued a payment invoice to Plaintiff, and Defendant is obligated to pay VAT imposed on the real estate purchased by it for the purpose of financing a Third party. Defendant failed to provide any evidence of VAT payment due to discharge its liability or transfer obligation. Based on the abovementioned facts, the Department decided to accept Plaintiff Case.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- Obligate Defendant,Company, CR. No. (.....), to pay Plaintiff, Mr....., holder of National ID No. (.....), the amount of (35,18,650) eighteen thousand, six hundred, and fifty riyals and thirty-five halalas.

This decision was issued in presence of both litigants. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh**

**Decision No. (VTR-2022-1558)
Delivered in Case No. (R-72670-2021)**

Keywords:

RETT - VAT - Real estate supply - Failure to provide any evidence of VAT payment - It is established that the customer assumes the responsibility of paying taxes.

Abstract:

Plaintiff required Defendant to pay the VAT amount of (SAR 30.000.00) imposed as a result of real estate supply. Defendant argued that the real estate buyer is the person obligated to pay the tax amount to ZATCA because he is the disposing person and beneficiary of the sale amount. The Department was satisfied that the competent authority for collecting tax has issued a payment invoice to Plaintiff. Since it is established that the customer or buyer (recipient of goods and services) is the person responsible for paying tax as an indirect tax, Defendant is obligated to pay VAT imposed on the real estate purchased by him, and failed to provide any evidence of paying VAT amount due to discharge him or transfer its obligation. The Department ruled to obligate Defendant to pay Plaintiff the amount of (SAR 30,000). This decision shall be deemed final and enforceable.

Documents:

- Articles (67/8) of [Income Tax Law amended by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (2) and (67/A/1) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (5/1, 2) and (14) of [Implementing Regulations of Value Added Tax Law issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 12/09/2022, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, formed by Royal Decree No. (17218) dated 27/03/1442 AH, convened a session to consider the above-mentioned Case. Since the Case has met the prescribed legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees on 28/09/2021AD.

The facts of this Case are summarized as follows: Mr....., holder of National ID No...., in his capacity as attorney of Plaintiff, under POA No. (.....), and Mr....., holder of National ID



No. (.....), submitted a statement of claims petitioning for a decision that orders Defendant..., holder of National ID No. (.....), to pay the VAT amount of (SAR 30.000.00) charged for real estate supply.

Upon presenting the same to Defendant, he submitted a Reply stating the following: Having reviewed the Case No. (.....) filed against Defendant by Plaintiff, Mr....., in which he demanded payment of RETT, which equals (5%) of the sale value with the total amount of (SAR 30.000), as mentioned in Case classification, I will summarize to the Honorable Committee my reply as follows: 1. Facts: • Two plots were purchased from Plaintiff, with the following specifications: • Plot No. (.....), Part (.....), plan No. (.....), District in Jeddah, in exchange for (SAR 300.000) three hundred thousand Saudi Riyals. • Plot No. (.....), Part (.....), plan No. (.....), District in Jeddah, in exchange for (SAR 300.000) three hundred thousand Saudi Riyals. • Plaintiff received the amount by certified checks drawn on Bank, check No.:(.....) and check No.: (.....). • Plaintiff then requested Defendant to pay the (5%) tax amount mentioned in the Case, i.e. the total amount of (SAR 30.000), but Defendant apologized for paying such amount because there is no condition or agreement obligating him to pay such tax amount. Since the buyer (disposing person) is the person responsible for paying taxes, Plaintiff was compelled to file this Case. 2. Objective defenses: Illegality of Plaintiff claim: - It is obvious to the Honorable Committee that the real estate seller is responsible for paying tax to ZATCA since he is the disposing person and beneficiary of the sale amount. Therefore, this Case may not be considered in accordance with law due to a lack of any condition or agreement between both parties. This is in accordance with Article (1.5) of RETT Implementing Regulations, which provides that: “The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom.” and Article (5.2) of RETT Implementing Regulations, which provides that: “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.” Therefore, due to lack of any agreement between Defendant and Plaintiff with regard to payment of the tax amount, Plaintiff shall be responsible for paying the same. Also, it is worth noting the details mentioned on page (14) of the Guideline to Real Estate Transaction Tax issued by ZATCA, which clarifies RETT entitlement (Attachment 1). 3. Requests: Based on the above, we ask the Honorable Committee to render a decision that includes the following: 1. Dismiss Plaintiff Case due to lack of legal grounds. Moreover, Plaintiff attorney submitted a Reply, which stated in short that tax shall be collected from the buyer, and Defendant acknowledged that that the sale amount was (SAR 300,000), which is the real estate price, and that this value did not cover any other amounts. The claim is filed to obligate Defendant to pay the tax imposed on the real estate being sold.

On Monday, 12/09/2022 AD, a session was held via video conference in accordance with procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling litigants, Mr., (..... National), under POA No. (...), holder of National Identity No (...), attended the session in his capacity as Plaintiff attorney. Nether Defendant nor his attorney attended the session despite being notified in accordance with law. At the beginning of the session, Plaintiff attorney stated that he complied with the statement of claim and requested that Defendant be obligated to pay the VAT amount of (SAR 30,000) imposed on the relevant real estate. Since the Case is valid for adjudication in accordance provisions of Article (21) of Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds:

The Department considered the Case after reviewing and verifying Case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH,



as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed a Case for the purpose of obligating Defendant to pay the VAT amount imposed as a result of a real estate supply transaction; therefore, this Case falls within jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Articles (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Article (1): “Approval of the Value Added Tax Law” and in Article (2): “The competent judicial authority stipulated by this Law shall form the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH”. In accordance with Paragraph (a/1) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: “1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: A. Resolution of violations, disputes and Cases of public and private rights, arising from the implementation of provisions of tax laws and regulations thereof, and the decisions and instructions issued accordingly.”; and since Plaintiff, as established in the Case file, filed the Case through the electronic portal on 28/09/2021 AD and the due date of the amount claimed on 25/07/1440 AH, therefore the Case is filed within the period prescribed by Law in Article (67.8) of the Income Tax Law as amended by Royal Decree No. (M/113): “Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee.” Therefore, this Case has fulfilled all formal requirements, and shall be accepted in form.

On Merits, upon reviewing Case papers and litigants replies, having granted sufficient time to express and submit all statements and documents, the Department was satisfied that the dispute lies in Plaintiff demand that Defendant pay the VAT amount of (SAR 30,000.00) imposed as a result of performing a real estate supply. Article (2) of the Value Added Tax Law stipulates that: “Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations.” and Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom.” It is established that the customer/buyer (beneficiary of goods or services) is responsible for paying the due tax as an indirect tax. The competent authority responsible for collecting tax issued a payment invoice to Plaintiff, and Defendant is obligated to pay VAT imposed on the real estate purchased by him. Defendant failed to provide any evidence of VAT payment due to discharge itself or transfer obligation. Based on the abovementioned facts, the Department decided to accept Plaintiff Case. With regard to Defendant argument that tax payment obligations shall be incurred by the disposing person in accordance with Paragraphs (1, 2, 5) of Article (5) of RETT Implementing Regulations, since there is no agreement between Defendant and Plaintiff with regard to payment of tax amounts, it could be responded that this does not constitute a response to the subject matter of the Case, as the Case subject matter is related to application of VAT rather than RETT, as both differ in terms of tax treatment and customer liability to pay the tax amount. Accordingly, the Department was satisfied to disregard this argument.

Based on the above, and after deliberation, the Department unanimously decided as follows:



Decision:

- To obligate Defendant, Mr....., holder of National ID No. (.....), to pay Plaintiff, Mr....., holder of National ID No. (.....), the amount of (SAR 30,000).

This decision was issued in presence of both litigants. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violation and Disputes in Dammam

Decision No. (VD-2022-1512)
Delivered in Case No. (R-72853-2021)

Keywords:

RETT - Added value - Late payment fine - Declaration amendment - Accept Plaintiff Case and cancel tax amount.

Abstract:

Plaintiff requested to cancel ZATCA decision regarding imposition of RETT and the late payment fine resulting thereof. With regard to RETT, ZATCA responded that the price of the real estate transaction, the subject matter of this Case, is evidenced; therefore, the transaction shall be subject to RETT. With regard to the late payment fine, it turned out that Plaintiff declaration was invalid, which required a declaration amendment and issuing an assessment notice, thus imposing RETT that was not paid on the legally prescribed date and imposing a late payment fine. The Department has established, with regard to RETT, that there was no bank transfer from Plaintiff account. Regarding late payment fine clause, the Department was satisfied that Defendant Case was invalid, and the resulting occurrence shall take the same effect. The Department ruled to Accept Plaintiff claim, cancel tax amount, consider the decision as final and enforceable.

Documents:

- Articles (3/6) of [RETT Implementing Regulations pursuant to Ministerial Decision No. \(712\) dated 15/02/ 1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 28/12/1443 AH, corresponding to 27/07/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, was formed pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (65474) dated 23/12/1439 AH, for the purpose of considering the abovementioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 29/09/2021 AD.

The facts of this Case are summarized as follows: Mr....., holder of National ID No. (...), submitted a statement of claim challenging Defendant decision with regard to imposing RETT and a late payment fine, and requesting cancellation of the same.

Having presented the statement of claim to Defendant, it responded as follows: I. On merits: Upon reviewing Plaintiff statement of claim, it turned out that its Clauses are as follows: 1. RETT. 2. Late payment fine. Therefore, ZATCA response could be summarized as follows: 1.1 With regard to the First Clause, ZATCA exercised the authority granted thereto under Article (6) of



RETT Implementing Regulations, which stipulates that: “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.” Plaintiff requested that the real estate transaction, subject matter of the Case, be treated as an exception excluded from RETT application, in accordance with Article (3.6) of RETT Implementing Regulations, which states that: “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”. In order to verify the applicability of the exception to Plaintiff, ZATCA requested supporting documents proving transaction validity in accordance with Article (10.2), which provides that: “All persons shall provide the Authority with any information may be requested thereby for the purposes of establishing their tax obligations.” Therefore, Plaintiff submitted deed No. (...), which clarified that the transfer—a real estate transaction—was performed in exchange for (SAR 1.800.000). Since a gift is “A donation by someone having the right to dispose to another person, for no consideration,” and it is evidenced that the relevant real estate was disposed of in exchange for a price, the exception may not be applied thereon, and the transaction shall be subject to RETT. 1.2 With regard to the Second Clause: After reviewing Plaintiff declaration, ZATCA was satisfied that it is invalid, which necessitates declaration amendment and issuing an assessment notice, which in turn resulted in imposing the due tax that was not paid within the prescribed period, and therefore a late payment fine was imposed for months following the relevant real estate transaction, as explained earlier, in accordance with Article (8) of RETT Implementing Regulations, which provides that: “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” Based on the above, ZATCA requested the Honorable Committee to dismiss the Case for the grounds stated above and uphold ZATCA procedures subject of the Case. Also, ZATCA reserves the right to provide further replies and clarifications until closing of the pleadings.

On Sunday, 15/05/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Both parties wished to proceed with the Case. The Plaintiff appeared also attended the session, in his capacity as ZATCA representative, by virtue of authorization No. (.....) dated (.....) attended in his capacity as attorney of Defendant, Company, and neither Plaintiff nor his attorney appeared or attended the session, despite being legally notified of the session date. Therefore, the Department unanimously resolved to dismiss the Case in accordance with Article (20) of Tax Dispute and Violation Committee Procedures.

On 25/05/2022 AD, heirs’ attorney submitted an application for proceeding with the lawsuit. Therefore, the Department set the session of Sunday, 26/06/2022 AD. At that date, the session was held in accordance with remote litigation procedures, since the Department concluded that Plaintiff passed away under Death Certificate No. (...) dated 17/08/1443 AH issued from Civil Affairs. In addition, (...), Holder of National Identity No (...) appeared on behalf of Plaintiff heirs under Determination of Heirs Deed No. (...) and POAs attached to Case file. In addition, Defendant’s attorney (...), Holder of National Identity No (...) In his capacity as ZATCA’s Representative by Authorization Letter No. (...), dated .../10/1442 AH issued by Vice Governor for Legal Affairs. Having asked heirs’ attorney about the Case, he answered as stated in the statement submitted to the General Secretariat of Zakat, Tax and Customs Committees and insisted on statements included therein. Having asked Defendant’s attorney about his answer, he insisted on the statements included in answer memorandum. The Department has asked Plaintiff heirs’ attorney to elaborate reason for stating, in the notarized instrument, what indicates that there is a sale in return for a price, while the authenticated letter addressed to the General Secretariat of Zakat, Tax and Customs Committees dated 22/01/2022 AD states that the supply process was a gift without a price, and reasons for the same. The Department decided adjournment to



27/07/2022 AD, 12:00 PM. At that date, the session was held in presence of persons who appeared in the preceding session, in addition to appearance of attorney and notary public (...), holder of National ID No. (...). Having asked the notary public about genuineness of the letter issued on his letterheads and submitted by Plaintiff's attorney, he confirmed genuineness of all information therein contained. Having asked him about writing down price of real property in the deed issued by him as a notary public if the transaction is a gift, not a sale, he answered: "At the beginning of amending tax to 5% as RETT, we, as notaries, can only write down the value in the specified cell on MOJ website, as the system does not accept zero value or no value". When presenting the same to Defendant's attorney, he stated that the notice issued by ZATCA based on entries of taxpayer included the value of sale. Accordingly, the RETT and fine were determined. This is supported by the fact that the deed of real property registration did not include any reference to a gift, but it included the value regarding transfer of real property ownership to inheritee's wife. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In form: Since Plaintiff filed the Case to request that Defendant's decision regarding imposing RETT and late payment fine be canceled based on Value Added Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it falls within the jurisdiction of the Committee to Adjudicate Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity, and within the legal time-limit. Therefore, the Department accepts the Case in form.

On merits: Having taken cognizance of Case documents and answers of both parties after giving them sufficient time to express and submit necessary documents, the Department concluded that the dispute involves imposing RETT and resulting late payment fine. Accordingly. The Department found the following:

1. RETT Clause: It turns out that the dispute involves Plaintiff's claim to cancel RETT in question. The provisions of Paragraph (6) of Article (3) of RETT Implementing Regulations stipulates that the gift registered with the competent authority shall include spouse or relative up to the Second degree of affinity. Since the relationship between Plaintiff and his wife is of the First degree, this means that he is eligible for exemption. Although Plaintiff authenticated and articulated the deed for a monetary consideration, Plaintiff attached four bank statements for his personal accounts and his wife's accounts covering the same period during which the real property ownership was transferred. Having taken cognizance of these statements, the Department did not find any bank transfer issued from Plaintiff's account or any incoming transfer to his wife's account. Since ZATCA did not challenge the existence of other accounts nor provided any evidence contradicting Plaintiff's claims, which were corroborated by the notary, except for the amount included in the deed, which Plaintiff and the notary justified as necessary to avoid a regulatory issue that was not disproven. Therefore, the Department accepts the Case, and cancel Defendant's action of imposing RETT on Plaintiff.
2. Late Payment Fine Clause: It turns out that the dispute involves Plaintiff's claim to cancel late payment fine resulting from RETT. Since the Department found Defendant's action regarding the First Clause incorrect, and since the related matters shall have the same force and effect.



Therefore, the Department deems that Defendant's action of imposing late payment fine is incorrect.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

- Accept Plaintiff Case and cancel RETT amount subject matter of the Case, as well as any fines resulting therefrom.

This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1882)
Delivered in Case No. (R-
82034-2021)

Keywords:

Real Estate Transaction Tax (RETT) - Late Payment Fine - There are variances between real property sale prices and average market value - The principal rule is transaction correctness unless otherwise is proven.

Abstract:

Plaintiff requests canceling ZATCA decision of imposing RETT of SAR 8,400 as a result of disposing of a real property in the amount SAR 210,000 and resulting fines. ZATCA answered as follows: It turns out that there are variances between sale prices of Plaintiff's real property and average market value of the same plan, which indicates that the fair market value of lands is higher than sale value. The legal provisions stipulate that the lawsuit is filed by a party having capacity and within the prescribed time-limit. Therefore, the Case shall be accepted in form. The Department concluded: First: With regard to RETT: Defendant did not provide evidence confirming accuracy of property valuation in invoice subject matter of the dispute by an accredited valuer, especially considering that the average market value is merely an indicator calculated based on amounts of transferred deeds, which include amounts both below and above the indicator, and it is not considered a reliable standard. In addition, ZATCA could have consulted real estate valuers or a specialized entity authorized by law to provide an opinion on the matter. However, since real property valuation was based solely on an individual opinion and the indicator, and given the significant variation in land prices within the same plan, sometimes exceeding double, the Department is not convinced of valuation accuracy. Second: Since the late payment fine resulted from the First Clause; therefore, the related matters shall have the same force and effect. Department ruled to accept Plaintiff Case and cancel Defendant's decision and resulting fines, and deem the decision as final and enforceable.

Documents:

- Articles (1), (2), (4), (5.1) and (8.C) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/02/1442 AH](#)
- Article (6.2) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions. ◇



On Monday, 16/02/1444 AH corresponding to 12/09/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed pursuant to Royal Order No. (65474) dated 23/12/1439 AH, held a session to consider the above-mentioned Case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 14/11/2021 AD.

The facts of this case are summarized in that (...), holder of National ID No (...), submitted a statement of claim, including objection to Defendant's decision regarding imposition of RETT amounting to SAR 8,400 as a result of disposing of a real property in the amount of SAR 210,000 and the resulting fines, and requests canceling Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: On Merits: 1. ZATCA exercised its authorities conferred under Paragraph (2) of Article (6) of RETT Implementing Regulations. As a result, ZATCA reevaluated the real property and transactions paid by Plaintiff. Throughout examination and verification, MOJ Portal (Najiz) was consulted to verify the average market value of adjoining plots and the same plan No. (3234) in a district located in East Riyadh. It was found that there were variances between sale prices of Plaintiff's real property and average market value of the same plan, which indicates that the fair market value of lands is higher than sale price based on MOJ data. Therefore, ZATCA reevaluated transaction in accordance with Article (4) of RETT Implementing Regulations. 2. Having reviewed RETT declared by Plaintiff, ZATCA found it incorrect, which required adjusting RETT as aforementioned, leaving variances in RETT due that was not paid within the statutory period. Accordingly, a late payment fine was imposed for months following tax period in question, in accordance with provisions of Paragraph (C) of Article (8) of RETT Implementing Regulations". In addition, Defendant concluded its memorandum, requesting Department to dismiss the Case. End of Answer.

Plaintiff submitted a replication wherein replied as follows: "If ZATCA had not erred, it would not have recently amended the Law to make approval of the Fourth Clause mandatory before issuing TIN. If ZATCA was correct and its actions were legal, why did it update the Law and force approval, or else no TIN for real estate transaction would be issued? 2. I repeat, I am ready to disclose my bank statements for review. I have not committed tax fraud. 3. I am elderly and unaware of this article, and I sold the real property at a price that was suitable for me. Praise be to Allah. 4. When I sold the property, I was in Abha, and I can prove the same. I was unable to go to the plan to inquire about prices". End of Answer.

On Monday, 12/09/2022 AD, the Department held a session via video conference in accordance with remote litigation procedures. At this session, Defendant appeared. However, Plaintiff did not appear despite of being served. In addition, Defendant's attorney (...), holder of National Identity No (...), in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH issued by Vice Governor for Legal Affairs. Having presented the same to Defendant's attorney, he requested proceeding with the Case and adjudication. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds:

After reviewing Case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH and its amendments, Tax Dispute and Violation Committees Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, Common VAT Agreement of GCC States, the relevant laws and regulations.

In form: Since Plaintiff filed this Case for the purpose of canceling Defendant's decision with regard to imposing RETT and late payment fine in accordance with Value Added Tax Law and its



Implementing Regulations, and given that this dispute is a tax disputes, it falls within the jurisdiction of the Committee to Adjudicate Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the Case was filed by a person with capacity and within the prescribed statutory period, the Department accepts the Case in form.

On Merits: Having examined Case documents and answer of both parties after giving them a period to express and submit their statements and memorandums, the Department found that the dispute relates to:

First: With regard to RETT, it turns out that the dispute involves Plaintiff's claim to Defendant to cancel the increased RETT invoice of SAR 8,400 for disposing of real property in the amount of SAR 210,000 due to reevaluation of the real property by Defendant in the amount of SAR 378,000, with variance of SAR 168,000. The definition of RETT in Article (1) of RETT Implementing Regulations states: "RETT: The financial amount imposed on real estate transaction". In addition, the Definition of Real Estate Transaction stipulated in Article (1) RETT Implementing Regulations states: "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". Moreover, Article (2) of RETT Implementing Regulations states: "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 (4) of RETT Implementing Regulations states: "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". Furthermore, Paragraph (1) of Article (5) of RETT Implementing Regulations states: "The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom". Having taken cognizance of the entire Case file and the included pleas, it turns out that Plaintiff requests canceling RETT invoice as stated in SADAD Invoice No. (...) dated 07/09/1442 AH corresponding to 19/04/2021 AD regarding Deed No. (...) in increased value of SAR 168,000 and RETT of SAR 8,400. Plaintiff sold a real property in the amount of SAR 210,000 and paid RETT of SAR 10,500. In addition, the real property was reevaluated by Defendant (ZATCA) in value of SAR 378,000. Having taken cognizance of Defendant's answer, ZATCA states that the real estate transaction is lower than the fair market value according to average market value of adjoining plots according to data of MOJ Portal "Najiz", which is considered a violation of Article (4) of RETT Implementing Regulations. Whereas any legal action that transfers ownership or possession of real estate for the purpose of ownership or benefit is subject to a tax of 5% of the total value of property transaction, regardless of property's condition, form, or use at the time of transaction. This is applicable unless excluded by Article (3) of RETT Implementing Regulations, and whereas Defendant did not submit proof of validity of the real estate valuation issued in the disputed invoice from an accredited valuer, especially since the average market value is an indicator that is calculated based on the amounts of deeds that include amounts less than the indicator and higher than it, but it is not considered a measure. ZATCA could have sought assistance of real estate valuer or an entity with competence and expertise authorized by the Law to express an opinion on this regard. However, since the real estate valuation was based solely on a subjective opinion and a single indicator, and considering that land prices in the same plan varied significantly - sometimes more than double - the Department lacks confidence in valuation. As the principal rule is that the transaction is valid unless proven otherwise, the Department has decided to cancel Defendant's decision regarding



RETT invoice issued from "SADAD" system with Ref. No. (...) dated 07/09/1442 AH corresponding to 19/04/2021 AD, with property value increased by SAR 168,000 and RETT of SAR 8,400.

Second: Regarding the late payment fine arising from RETT, since the late payment fine resulted accordingly; therefore, the related matters shall have the same force and effect in accordance with Article (8) of RETT Implementing Regulations. Therefore, the Department cancels Defendant's decision.

Based on the foregoing and in accordance with provisions of Common VAT Agreement, Value Added Tax Law and Implementing Regulations thereof, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

- Accept Plaintiff's claim and cancel Defendant's decision and resulting fines.

This decision was rendered in the presence of both parties in line with Article (21) of Tax Dispute and Violation Committee Procedures. The Department has set a 30-day period for obtaining a copy of the decision, with the possibility of extending this period by an additional (30) days if deemed necessary. The parties to the Case shall be entitled to appeal this decision within 30 days from the day following the specified date of receipt. If no appeal is filed within this time-limit, the decision shall become final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Article 33.2 of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes Riyadh

Decision No. (VR-2022-1127)
Delivered in Case No. (R-
78690-2021)

Keywords:

Real estate Transaction Tax – revaluation of the property – value added – late payment – fair market value of land.

Abstract:

The Plaintiff seeks to nullify the decision made by ZATCA regarding the reassessment of a sold property at a higher value, resulting in an additional real estate transaction tax of (SAR 5,682) and a late payment penalty of (SAR 1,421). ZATCA responded by asserting that it acted within its granted powers, which led to reassessment of properties' values and transactions paid by the Plaintiff. During the review and audit process, it was verified via the Ministry of Justice's (Najiz) portal that there were discrepancies in the average market value of adjacent plots of land and the same scheme No.(.../.../...); It was discovered that the sale prices of Plaintiff's properties were lower than the average market value of similarly sized plots in the same area, indicating that the fair market value of lands was higher than the declared sale price, based on data obtained from the Ministry of Justice. The memorandum concluded with a request to dismiss the case. The Department found that the core of dispute was Plaintiff's objection to Defendant's decision to reassess the sold property at a higher value, imposing an additional real estate transaction tax of (SAR 5,682) and a late payment penalty of (SAR 1,421). The Plaintiff stated that they had sold a property for a declared value of (SAR 130,000) and paid a real estate transaction tax of (SAR 6,500). Upon reviewing the case file, the Plaintiff provided a check under No. (...) dated (24-09-1442AH) corresponding to (06-05-2021AD) with a value of (SAR130,000), issued by (.....Bank) indicating the following: (Purchase value of property No. (...) Of scheme No. (.../.../...), additionally, the Defendant did not clarify the mechanism used to calculate property's value at a higher amount than the disclosed value, nor did it provide the necessary supporting documents that justified the calculated difference. Regarding the late payment fine, since the acceptance of Plaintiff's claim was based on the aforementioned reassessment Clause, and as the late payment fine is directly related to this, it will be treated accordingly, leading to the following conclusion: Cancellation of ZATCA's decision regarding imposition of an additional real estate transaction tax in the amount of (SAR 5,682), and a fine for late payment amounted to (SAR 1,421).

Documents:

- Article (2) of the Implementing Regulations [of Real Estate Transaction Tax issued by Royal Order No. \(A/84\) dated 14/02/1442AH.](#)

Facts:





Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 01/08/2022, First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and amendments thereof, and constituted by Royal Order No. (17218) of 27/03/1442 AH, held its session to consider the case filed by Plaintiff/ ..., against Defendant (ZATCA). Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 21/10/2021 AD.

The details of this case are summarized in the fact that: ..., holding National ID No. (...), submitted a claim objecting to the ZATCA's decision regarding revaluation of a sold property at a higher value, imposition of an additional real estate transaction tax amounting to (SAR 5,682), and a late payment fine of (SAR 1,421), is requesting cancellation of Defendant's decision.

Upon presenting the statement of claim to Defendant, ZATCA replied to Plaintiff objection as follows: ZATCA exercised its powers under Paragraph (2) of Article (6) of the RETT Implementing Regulations. As a result, it reassessed the real estate and disposals value paid by the Plaintiff. During inspection and audit process, Najiz portal of the Ministry of Justice was consulted to verify the average market value of neighboring plots and the same scheme No. (.../.../...). It was discovered that there were discrepancies between the sale prices set by the Plaintiff for his real estate and the average market value of similarly sized lands in the same scheme. This indicates that the fair market value of lands is higher than the declared sale price, based on data from the Ministry of Justice. ZATCA concluded its Reply with a request to dismiss the case.

On Monday, 01/08/2022 AD, the Department held its First session via videoconference to consider the case filed by ..., holding National ID No. (...), against ZATCA. Upon summoning the parties involved, ... attended, along with ..., National ID No. (...), representing ZATCA under authorization number (...) issued thereby. After verifying legitimacy of the attendees by reviewing their national ID cards through an enlarged view and confirming their identities, the decision was made to proceed with the case. The Plaintiff requested cancellation of ZATCA's decision to impose an additional real estate transaction tax of (SAR 5,682) on the assessed value of the land they sold for (SAR130,000), for which they had already paid the required tax at the time of sale. Additionally, they sought cancellation of a late payment fine amounting to (SAR1,421), as detailed in case filing. When asked for a response to Plaintiff's claim, the representative of ZATCA upheld validity of ZATCA's decision, referring to the details provided in the response note submitted on this day in reply to Plaintiff's claim. When asked if they had anything to add, the Plaintiff stated that they needed a sum of money and therefore sold the land for (SAR 130,000). The Plaintiff mentioned that they were unaware of the price per meter in the area and had no further comments or submissions. ZATCA representative was satisfied with the above. As such, after discussion, the Department decided to close pleadings and adjourn the session for deliberation and issuance of decision

Grounds:

Having reviewed and examined case documents and conducting examination and with reference to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Implementing Regulations thereof issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof issued by ZATCA Board Decision No. (3839) dated 14/12/1438 AH as amended, and Rules of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the Common VAT Agreement of GCC States as well as other relevant laws and regulations.

In Form: Since Plaintiff filed its case to overturn Defendant's decision to reassess the sold property at a higher value based on Value Added Tax Law and Implementing Regulations thereof,



and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: Having examined the entire case file and defenses presented, it was determined that the dispute centers on Plaintiff's objection to Defendant's decision to reassess the sold property at a higher value, resulting in an additional real estate transaction tax of (SAR 5,682) and a late payment fine of (SAR 1,421). The Plaintiff stated that they had sold a property, reported a sale value of (SAR 130,000), and paid a real estate transaction tax of (SAR 6,500). The Department reviewed the case file, and the Plaintiff submitted a check under No. (...) dated (24-09-1442AH) corresponding to (06-05-2021AD) with a value of (SAR130,000), issued by (.....Bank) indicating the following: (Purchase value of property No. (...) Plan No. (.../.../...)). Moreover, the Defendant did not explain the method used to calculate property's value at a higher amount than the disclosed value, nor did they provide the necessary supporting documents that justified the calculated difference. According to Article (2) of the Real Estate Transaction Regulations: "A tax of 5% shall be imposed on the total value of any real estate transaction, regardless of property's condition, form, or use at the time of disposal. This includes land and any constructions or buildings thereon, whether disposal is in its current state or after establishment of facilities. It applies to the entire property, any portion thereof, a detached unit, a shared unit, a residential unit, or other types of real estate, whether disposal is documented or undocumented." This concludes with acceptance of Plaintiff's claim and annulment of Defendant's decision. Regarding the late payment fine, as the acceptance of Plaintiff's case was based on the evaluation Clause mentioned above, and since the fine stemmed from this issue, the related decision shall follow the same judgment. Consequently, the Department has accepted Plaintiff's case and canceled the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept the case in form.

Second: On Merits: Cancel ZATCA's decision regarding imposition of an additional real estate transaction tax in the amount of (SAR 5,682), and a fine for late payment amounted to (SAR 1,421).

This decision was made in presence of both parties and shall be considered final and enforceable under Article (42) of the Rules of Tax Dispute and Violation Committee Procedures. The date the decision is made available in the electronic system of the General Secretariat shall be considered the official date of delivery.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Paragraph (2) of Article (33) of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Jeddah

Decision No. (VJ-2114-2022)
Delivered in Case No. (R-
85523- 2021)

Keywords:

Real estate Transaction Tax – final appraisal – late payment – real estate by gift – tax disputes.

Abstract:

The Plaintiff is seeking to annul ZATCA's decision regarding the final evaluation for the Third quarter of 2021 and to contest imposition of a late payment fine __It has been established to the Department that the primary issue of dispute is as follows: Real Estate Transaction Tax: Whereas the dispute lies in Plaintiff's objection to the revaluation issued by the Defendant imposing real estate transaction tax, and where the Plaintiff indicated in his statement of claim that he had executed the deed to his brother, which was considered a gift free of charge. The notary who executed the deed transfer stated that there was no tax resulting from this transfer, as there was no financial compensation involved. Consequently, this was recorded. Referring to the Implementing Regulations of the Law of Civil Procedure, these regulations clarify the degrees of kinship, stating that "7/1 Relatives up to the Fourth degree are: First degree: Fathers, mothers, grandfathers, grandmothers, grandmothers and their ancestors ,. Second degree relatives are: Sons, their children, even descendants", and where it appears that the full brother is not among the degrees of kinship excluded from the disposal of real estate by gift, as for Plaintiff's request to apply provisions of paragraph (A/6) of Article (3) after amendment, this is incorrect, as the amendments made recently do not apply retroactively, which leads the Department to reject Plaintiff's objection. Second: Late payment fine: Whereas a breach lies in the imposition of the late payment penalty resulting from the final valuation notice, and consequently the entitlement to tax was not paid on time, and referring to the specifics of objection, which concern the late payment fine incurred due to the non-payment of transaction tax as determined by the valuation, and since payment is required, Plaintiff is requesting cancellation of the fine. Given that the initial Clause upheld ZATCA's decision, and since the late payment fine arose therefrom, the matter is subject to the same ruling. Department ruled to Responding to Plaintiff's case regarding objection to the real estate transaction tax, and the fine for late payment.

Documents:

- Articles (1)•(3/ 6/A)• (8/C) of [the Implementing Regulations of Real Estate Transaction Tax issued by Royal Order No. \(A/84\) dated 14/02/1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Tuesday, 27/09/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant the Income Tax Law issued by Royal Decree No. (M/1) of 15/1/1425 AH and amendments thereof, constituted by Royal Order No. (65474) of 23/12/1439 AH, held its session to consider the case filed by Plaintiff/ ..., against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 08/11/2021 AD.

The facts of this case are summed up so as... Holder of National Identity No (...) On his own behalf, he submitted a statement of claim that included his objection to Defendant's decision on the final evaluation related to the Third quarter of 2021, and imposition of a late payment fine. By presenting Plaintiff's statement of claim to Defendant's attorney, he replied with a three-page response note, following which the Plaintiff submitted a three-page response note, that was reviewed by the Department.

On Tuesday, 27/09/2022, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its session via video conference in accordance with the procedures for remote video litigation based on Clause (2) of Article (15) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No.: (26040), dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant, and having summoned the Parties involved in the case, neither Plaintiff nor representative thereof appeared, while ... attended. (... (..... nationality), holding National ID No. (...), In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... Issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of the Rules of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds:

Having reviewed case documents and conducting examination and with reference to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Implementing Regulations thereof issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof issued by ZATCA Board Decision No. (3839) dated 14/12/1438 AH as amended, and Rules of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the Common VAT Agreement of GCC States as well as other relevant laws and regulations.

In Form: Since Plaintiff filed its case to annul Defendant's decision regarding the final assessment for Third quarter of 2021 and the resulting fines, and as this dispute falls within jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes according to Royal Decree No. (26040) dated 21/04/1441 AH, and since the case was filed by an authorized party within the period prescribed by law, it is therefore accepted in form by the Department.

On Merits: Having examined the case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to: First: the Real estate Transaction Tax, And whereas the dispute lies in Plaintiff's objection to the reassessment issued by Defendant, which imposed a real estate transaction tax. Whereas the definition of (real estate transaction) in Article (1) of RE'TT Implementing Regulations stipulates that: "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." - Article (3) Paragraph (A/6) of RE'TT Implementing Regulations states that: "The following cases shall be excluded, in full or part, from



the RETT application scope: Transfer of testator's real estate property as a gift to a spouse or relative up to the Third degree of affinity, provided that recipient of the gift does not subsequently transfer the gifted estate to a person who would not be exempted from this exception if the gift had been made directly from the original donor, for a period of three years from the date of documenting the gift." Building on the foregoing, and after reviewing case file, where Plaintiff indicated in their statement of claim that they transferred the deed to their brother ..., and it was considered a gift without compensation, as the notary who executed the transfer stated that there is no tax applicable to this transfer due to absence of any financial consideration, and recorded this accordingly. Referring to the Implementing Regulations of the Law of Civil Procedure, which clarified the degrees of kinship as: "1/7 Relatives up to the Fourth degree: First degree: Fathers, mothers, grandfathers, and grandmothers, even ancestors. Second degree: Sons, their children, even descendants", and where it appears that the full brother is not among the degrees of kinship excluded from the disposal of real estate by gift, as for Plaintiff's request to apply provisions of Paragraph (A/6) of Article (3) after amendment, this is incorrect, as the amendments made recently do not apply retroactively, which leads the Department to reject Plaintiff's objection. Second: Late payment fine. Whereas, a breach lies in imposition of the late payment penalty resulting from the final valuation notice, and consequently the entitlement to tax was not paid on due date. Since Paragraph (c) of Article (8) of the RETT Regulations stipulates: "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: 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". Based on the foregoing, and by reference to details of the objection represented in the late payment fine, resulting from non-payment of the due transaction tax according to the assessment that must be paid in accordance with Paragraph (c) of Article (8) of the RETT Implementing Regulations, and since Plaintiff is demanding annulment of the fine, which violates what is stipulated in paragraph (c) Article (8) of the Implementing Regulations. As the First Clause upheld ZATCA's decision, and since the late payment fine arose from that decision and is consequently subject to the same ruling, the Department concludes by rejecting Plaintiff's objection.

Based on the foregoing and in accordance with provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and the Rules of Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

First: Dismiss Plaintiff's case with regard to objection to the Real estate Transaction Tax that is the subject of the case.

Second: Dismiss Plaintiff's case in relation to objection to the late payment fine in question.

This decision was issued in the presence of both litigants. The Department has set a period of (30) days for the receipt of a copy of the judgment, and the Department may extend the delivery period for another (30) days as it deems appropriate. The parties to the case may request its appeal within (thirty) days from the day following the date specified for receipt thereof. In the event that objection is not submitted, it shall become final and enforceable after expiry of this period. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Paragraph (2) of Article (33) of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VJ-2114-2022)
Delivered in Case No. (R-
78734- 2021)

Keywords:

Real estate Transaction Tax – revaluation of the property – value added – late payment – Transfer of Ownership through Gift - Acceptance of Case in Form.

Abstract:

Plaintiff's request to annul the decision of ZATCA regarding re-evaluation of the real estate, imposition of an additional real estate transaction tax in the amount of (SAR 11,056.80), and the late payment fine amounted to (SAR 2,639) - ZATCA responded that it exercised the powers granted thereto, which resulted in re-evaluation of the property, as it was found that real estate declared value does not reflect its true value and is less than the market value. Regarding the late payment fine: Due to the aforementioned revaluation process, which resulted in an increase in value of the tax due, which was not paid by Plaintiff on its due date; the late payment fine was imposed and the memorandum was concluded with a request to reject case, it was proven to the Department that the dispute lies in Plaintiff's objection to Defendant's decision to revalue the property, and imposition of an additional real estate transaction tax amounted to (SAR 11,056.80), and the fine for late payment in the amount of (SAR 2,639), and where Plaintiff's attorney claims that the land was owned by his mother, who is the Plaintiff, and her ownership was transferred to him as a gift, and since the transfer of ownership was simultaneous with the Corona pandemic and the elderly were not allowed to enter government facilities to document the transfer of ownership through the gift, and since the electronic notary website does not allow for registration of a gift in the transfer of real estate ownership, it was impossible for Plaintiff to document the transfer of land ownership to her son ... As a gift, and whereas this transaction is exempt from payment of real estate transaction tax: "a- The following cases shall be excluded, in full or part, from the RETT application scope: Disposing the property as a documented gift to the spouse, a relative up to the Second degree, or by a legally documented Sharia-compliant will not exceeding a quarter of testator's estate." Regarding the late payment fine, since the above-mentioned evaluation Clause has led to acceptance of Plaintiff's case, and the late payment fine arose thereupon, it shall be subject to the same ruling, leading to the following: annulment of ZATCA's decision regarding imposition of an additional real estate transaction tax in the amount of (SAR 11,056.80), and a fine for late payment amounted to (SAR 2,639).

Documents:

- Article (a/3/ 6) of the Implementing Regulations of the [Real Estate Transaction Tax issued by Royal Order No. \(A/84\) dated 14/02/1442AH.](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 07/11/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and amendments thereof, and constituted by Royal Order No. (17218) of 27/03/1442 AH, held its session to consider the case filed by Plaintiff/ ..., against Defendant (ZATCA). Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 21/10/2021 AD.

The details of this case are summarized in the fact that: ..., holding National ID No. (...), submitted a claim objecting to the ZATCA's decision regarding revaluation of property, imposition of an additional real estate transaction tax amounting to (SAR 11,056.80), and a late payment fine of (SAR 2,639), is requesting cancellation of Defendant's decision.

By presenting the statement of claim to Defendant, ZATCA summarizes its response to Plaintiff's objection as follows: ZATCA exercised its authority under paragraph (2) of Article (6) of the Implementing Regulations of the Real Estate Transaction Tax, resulting in re-evaluation of the property. ZATCA concluded that the declared property value did not reflect its true market value and was considered below market value. Regarding the late payment fine: Due to the aforementioned revaluation process, which resulted in an increase in the tax due that Plaintiff did not pay on the regular due date, a late payment fine was imposed. The memorandum was then stamped with a request to dismiss the case.

On Monday, 01/08/2022 AD, the Department held its First remote videoconference session to consider the case filed by ..., national ID number (...), against ZATCA. Upon summoning Parties to the Case, ..., national ID number (...), attended as representative of Plaintiff based on power of attorney number (...), and ..., national ID number (...), attended as representative of ZATCA, based on the authorization issued by thereby under number (...). After verifying presence of Parties to the case by displaying each of their national ID cards through a magnified window and confirming their capacities, the court decided to proceed with case hearing. Plaintiff's representative requested annulment of ZATCA's decision regarding imposition of a real estate transaction tax in the amount of (SAR 11,056.80), and a late payment fine amounted to (SAR 2,639), based on details stated in the statement of claim. When asked for ZATCA's response to the Plaintiff's claim, ZATCA's representative affirmed the validity of their decision, citing the details provided in the response memorandum submitted regarding Plaintiff's claim. When asked if they had anything else to add, Plaintiff's representative stated that the land was owned by Plaintiff's mother and was transferred to him as a gift, which is in accordance with the Law since the relationship is of First degree. Due to COVID-19 pandemic, the elderly was not permitted to enter government facilities, and there was no option on the Notary Public website to register the gift. As a result, a symbolic amount was used for the transfer of ownership, and the above-mentioned was submitted. ZATCA representative was satisfied with the above. As such, after discussion, the Department decided to close pleadings and adjourn the session for deliberation and issuance of decision

Grounds:

After due examination, and having taken cognizance of the case papers, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures



promulgated by Royal Order No. (26040) dated 21/04/1441 AH, the Common VAT Agreement of GCC States and the relevant laws, regulations and decisions.

In Form: Since Plaintiff filed its case to request cancellation of Defendant's decision on property re-evaluation based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: After examining the entire case file, it was found that the main issue is Plaintiff's challenge against Defendant's decision to re-evaluate the property and impose an additional real estate transaction tax of (SAR11,056.80), as well as a late payment fine of (SAR 2,639). Plaintiff's representative argued that the land originally belonged to Plaintiff's mother and was gifted to him. However, due to COVID-19 pandemic, elderly individuals, including the Plaintiff, were unable to visit government facilities to document the gift transfer. Additionally, the electronic notary website did not offer an option to register gifts for property transfers, which prevented the Plaintiff from documenting the transfer of ownership to her son. as a gift, and whereas exemption from the real estate transaction tax mentioned in Paragraph (6) of Article (3) of the Implementing Regulations is relevant to this situation. According to Paragraph (A/6) of Article (3) of the Real Estate Transaction Tax Implementing Regulations: "a- The following cases shall be excluded, in full or part, from the RETT application scope: -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" leads the Department to accept Plaintiff's claim and annul Defendant's decision.

Regarding the late payment fine, as the acceptance of Plaintiff's case was based on the evaluation Clause mentioned above, and since the fine stemmed from this issue, the related decision shall follow the same judgment. Consequently, the Department has accepted Plaintiff's case and canceled the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept the case in form.

Second: On Merits: Annulment of ZATCA's decision regarding imposition of an additional real estate transaction tax in the amount of (SAR 11,056.80), and a fine for late payment amounted to (SAR 2,639).

Third: This decision was made in presence of both parties and shall be considered final and enforceable under Article (42) of the Rules of Tax Dispute and Violation Committee Procedures. The date the decision is made available in the electronic system of the General Secretariat shall be considered the official date of delivery.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Jeddah
Governorate

Decision No. (VR-2022-1139)
Delivered in Case No. (R-
40783-2021)

Keywords:

Real estate transaction tax – Real Estate Sale - Value Added Tax -The general principle is that the burden of paying the tax on goods and services falls on the client or buyer - Indirect tax.

Abstract:

Plaintiff is requesting that the Defendant Company pays a value-added tax of (SAR 37,500) related to the sale of a property valued at (SAR 750,000). It has been established that the issue concerns the Plaintiff (seller) asking the Defendant (buyer) to cover the value added tax amount (SAR 37,500) for property purchase at (SAR 750,000). It has been established to the Department that, as an indirect tax, the responsibility for paying the tax lies with the customer or buyer (recipient of goods and services). Furthermore, it has been confirmed that the Plaintiff sold the Defendant a property to be resold to the final consumer using real estate financing in the form of lease. Additionally, it has been verified that the Plaintiff is registered in the value-added tax system under tax number (...). On .../06/2020 and with effective date of.../05/2020, and subject to value added tax. Department ruled to Obliging the Defendant to pay the Plaintiff the amount of value added tax of (SAR 37,500).

Documents:

- Article (14) of [Implementing Regulations of the Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 15/08/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and amendments thereof, and constituted by Royal Order No. (65374) of 23/12/1439 AH, and reconstituted by Royal Order No. (19575) of 09/04/1442 AH held its session to consider the case filed by Plaintiff/, against Defendant..... Company; since the case met the prescribed legal requirements, it was filed with General Secretariat of Tax Committees on 08/03/2021 AD.

The facts of this case are summarized in the fact that ..., National ID No. (...), submitted a statement of claim that included a claim to oblige the Defendant company ..., Commercial Register No. (...), to pay the value added tax of (SAR 37,500), for the sale of a property with a value of (SAR 750,000) on 27/09/1441 AH corresponding to 20/05/2020 AD.



By presenting the statement of claim to the Defendant, a three-page response memorandum was submitted then reviewed by the Department.

On Monday, 06/09/2021 AD, the Department conducted its First session via videoconference to review the case filed by, National ID No. (.....), against (.....) Company, Commercial Register No. (.....). Neither the Plaintiff nor his representative appeared, despite proof of the hearing date sent via the registered email in the case file. However, Defendant's Representative (.....), National ID No. (.....), attended as Defendant's representative under Power of Attorney No. (.....). As neither the Plaintiff nor his representative attended the session, the Department decided to dismiss the case.

On 06/09/2021 AD, Plaintiff requested to proceed with the case.

On Wednesday, 11/05/2022 AD, the Department held its First session after the write-off via remote video conference, to consider the case filed by ..., National ID No. (...), against Company, Commercial Register No. (...). When Parties to the case were called, neither Plaintiff nor his representative attended, despite having been notified of the session date via the email registered in case file. Similarly, Defendant's representative did not appear, despite being notified through the same email. Given the absence of both Plaintiff and Defendant's representative, the Department decided to dismiss the case.

On 05/11/2021 AD, Plaintiff requested to proceed with the case.

On Sunday, 31/07/2022, the Department held its First session after the write-off via videoconference; to consider case filed by ..., National ID No. (...), against company, Commercial Register No. (...), Plaintiff attended the session, while Defendant's representative did not. It was not confirmed that Defendant had been informed of session date. After verifying Plaintiff's attendance and identity through a magnified window and confirming his capacity, and noting the lack of evidence that Defendant was notified of session date, the Department decided to postpone the session to Monday, 15/08/2022 AD, with the Defendant to be properly notified of the new date.

On Monday, 15/08/2022 AD, the Department held its Second session after the write-off via videoconference; to consider case filed by ..., National ID No. (...), against company, Commercial Register No. (...). When calling Parties to the case, the Plaintiff and ..., who holds National ID No. (...), attended as Defendant's representative under Power of Attorney No. (...). After verifying the attendance and identities of the Parties through their national ID cards via a magnifying window, the Department decided to proceed with consideration of the case. The Plaintiff (seller) requested that the Defendant (buyer) be obligated to pay the value added tax amount in a total amount of (SAR 37,500), resulting from the sale of a property to the buyer, based on the detail contained in the statement of claim. When asked about his response to Plaintiff's claim, Defendant's representative stated that a response memorandum had been submitted in reply to the Plaintiff, which was attached to the case file. When asked if either party had anything additional to add, both parties stated that they had nothing further to present beyond what had already been submitted. As such, after discussion, the Department decided to close pleadings and adjourn the session for deliberation and issuance of decision

Grounds:

After reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH and its amendments, and its Implementing Regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/06/1425 AH and its amendments, and after reviewing the rules of tax committee procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations.

In Form: Since the Plaintiff filed the case through the electronic portal on 08/03/2021 AD and the due date for the amount claimed was 20/05/2020 AD, the case was filed within the regular period specified in paragraph (8) of Article (67) of the Income Tax Law, as amended by Royal Decree No. (M/113): (Tax dispute lawsuits may not be heard upon the lapse of five years from



the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee), which means that the case must be accepted in form.

On Merits: Upon reviewing case documents and Parties' responses, and allowing sufficient time for both parties to present their submissions, the Department determined that the dispute centers on Plaintiff's (seller's) request for the Defendant (buyer) to pay the value-added tax of (SAR 37,500) for property supply valued at (SAR 750,000), as detailed in deed No. (...) dated (27/09/1441 AH) corresponding to (20/05/2020 AD). It was confirmed to the Department that the property in question was supplied, and as the responsibility for paying an indirect tax on received goods and services falls on the customer or buyer (the recipient of goods and services), it is clear that Plaintiff sold Defendant a property intended for resale to the final consumer through real estate financing in the form of lease. Additionally, it was confirmed that the Plaintiff is registered in the VAT system with tax number (...) on (.../06/2020 AD) and effective date of (.../05/2020 AD), and subject to value added tax, and whereas Article (14) of the Implementing Regulations of Value Added Tax Law stipulates that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom" which the Department considers acceptable Plaintiff's claim.

Decision:

First: Accept the case in form.

Second: On Merits: Obliging the Defendant company ..., Commercial Register No. (...), to pay the Plaintiff ..., National ID No. (...), the amount of value added tax of (SAR 37,500).

The decision was made in the presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VTR-2022-1352)
Delivered in Case No. (R-81532-
2021)

Keywords:

Real estate transaction tax – late payment fine – revaluation of the property – rejection of Plaintiff's claim.

Abstract:

Plaintiff's demand is to cancel ZATCA decision regarding imposition of a real estate transaction tax amounting to (SAR 85,564.90), related to a real estate transaction valued at (SAR 2,488,078), due to re-evaluation of the property by Defendant. As for the late payment fine, on the merits, the Department found that Plaintiff's objection is limited to the following: First: The Plaintiff sought to cancel the real estate transaction tax invoice of (SAR 85,564.90) related to the sale of a property worth (SAR 2,488,078), requesting a re-evaluation of the property by Defendant. Plaintiff argued that the property was sold to his son through real estate financing from a commercial bank and was sold below market value to support his son. However, since Plaintiff did not provide evidence proving the property was a gift or exempt from tax, the Department ultimately rejected Plaintiff's claim on this matter. Second: Regarding late payment fine, the Department determined that the dispute centers on Plaintiff's request to annul Defendant's decision to impose this fine, which arose from revaluation of property value as per SADAD payment system invoice. The Department concluded that Plaintiff's objection to Defendant's revaluation and imposition of the real estate transaction tax, based on fair value, was not valid. As a result, Defendant's decision was upheld. Since the fine in question is directly related to the revaluation decision, the Department confirmed that the fine imposed on the Plaintiff was justified. Department ruled to dismiss the Plaintiff case.

Documents:

- Articles (6) and (8/c) of [the Implementing Regulations of the Real Estate Transactions Tax issued by Ministerial Decision No. \(712\) of 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 03/08/2022, the Third Department to Adjudicate VAT violations and disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and constituted under Royal Order No. (17218) dated 27/03/1442 AH convened to consider the case in question. Since the case fulfilled all required legal conditions, it was officially submitted to the General Secretariat of Zakat, Tax, and Customs Committees on 10/11/2021 AD.



The case centers on Plaintiff, identified as ..., with national ID No. (...), on his own behalf, filed a claim challenging Defendant's decision to impose a real estate transaction tax of (SAR 85,564.90). This tax was applied to a real estate transaction valued at (SAR 2,488,078), with the Plaintiff seeking a re-evaluation of the property by Defendant. In addition to imposing late payment fine, annulment of the decision and the fines imposed.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: Formally, the Plaintiff did not comply with the legal procedures necessary to submit objection, as he was asked to provide a bank guarantee, and he did not fulfill the requests, which led to automatic cancellation of the objection request. On merits, first: ZATCA re-evaluated and resulted in exclusion of the amounts violating provisions of Article (48) of the Unified Value Added Tax Agreement, and Article (49) of the Implementing Regulations of the Value Added Tax Law. Second: With regard to the fine for error in filing the declaration, due to results of the examination and evaluation process for the tax period in question, the fine was imposed in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law. Defendant representative concluded his memorandum by requesting case inadmissibility of in form, and, alternatively, rejected it in merits. This concludes Defendant's response.

The Plaintiff also submitted a response note consisting of six pages of payment in form, that objection was submitted within the statutory period, and there is no statutory provision that requires rejection of the objection for non-payment of guarantee amount. Accordingly, objection was submitted in accordance with the statutory periods. On the substantive side, he argued that the attached invoices are in conformity with provisions of the Agreement and Regulation, and demanded approval of a value of (SAR 2,795,494,07), in order to provide tax documents for such amount. It concluded its memorandum by accepting the case in form and in substance, approving purchases and canceling fines.

On Thursday, 21/07/2022 AD, the session was conducted via videoconference, following the remote litigation procedures outlined in Clause (Second) of Article (15) of the Rules of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. When case parties were called, the Plaintiff appeared in person.attended..... (... (..... nationality), holding National ID No. (...), In his capacity as a representative of ZATCA, authorized under letter No. (...) dated.../10/1443 AH by the Deputy Governor for Legal Affairs, the Plaintiff stated at the beginning of the session that he sold a property to his son for (SAR 526,000), as recorded in the property deed. He noted that the sale amount was taxed, and argued that any amount exceeding the sale price claimed by Defendant was an estimated value not subject to tax. Plaintiff contended that this excess should be considered a gift since the sale was to his son and requested cancellation of both the tax imposed and the associated fines. When asked for comments, Plaintiff's representative stated that Defendant applied the fair market value to the sold property based on relevant statutory provisions, as detailed in the attached memorandum. When asked if they had anything else to add, both parties decided to rely on the materials already submitted in case file and hearing minutes. Accordingly, the Department decided to postpone the hearing to August 3 at 6 pm for further consideration of case and merits thereof.

On Wednesday, 03/08/2022 AD, the session was conducted via videoconference, following the remote litigation procedures outlined in Clause (Second) of Article (15) of the Rules of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. When case parties were called, the Plaintiff appeared in person.attended..... (... (..... nationality), holding National ID No. (...), In his capacity as representative of ZATCA under Authorization Letter No. (...) dated.../10/1443 AH issued by the Deputy Governor for Legal Affairs, and given that this session was scheduled for the decision announcement, the Department decided, at session beginning, to adjourn the session for further deliberation in preparation for issuing the decision.

Grounds:





The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, side by side with relevant laws and regulations.

In form, since Plaintiff's aim is to challenge Defendant's decision regarding the real estate transaction tax and the late payment fine, and considering that this dispute falls within jurisdiction of the Committee for Resolution of Tax Violations and Disputes under Royal Decree No. (M/113) dated 02/11/1438 AH, and since the case was filed by a party with standing and within the statutory period, the case shall be accepted as properly filed.

On **merits**, it was proven to the Department that Defendant issued its decision regarding imposition of a real estate transaction tax in the amount of (SAR 85,564.90), in exchange for real estate transaction in the amount of (SAR 2,488,078), in order to revalue the property by Defendant. Regarding late payment fine, the following was determined:

First: Regarding Defendant's request to cancel the Real Estate Transaction Tax invoice amounting to (SAR 85,564.90) for the sale of a property valued at (SAR 2,488,078), challenge to this request involves disputing Defendant's claim that the tax shall be canceled based on revaluation of the property. Plaintiff's defense is based on the argument that the property in question was sold to his son (...) through mortgage financing from Commercial Bank as in deed No. (...) on (24/11/1442AH) corresponding to (04/07/2021AD) with a value of (SAR 526,000), supported by a check drawn on Commercial Bank No. (...) On (04/07/2021 AD), Plaintiff was entitled to a certificate of state support for the tax on their First dwelling, as attached, the property was sold for less than its market value to assist his son. However, Plaintiff did not provide evidence of the gift or its tax exemption. Legal provisions require a tax of 5% on the total value of real estate transaction, regardless of the condition, form, or use of the property at the time of disposal. The Plaintiff, having completed a real estate disposition and acknowledged the sale for less than the fair market value, did not contest the estimated value. Defendant estimated the disputed property based on its authority under Article (6) of the RETT Implementing Regulations. "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". Whereas the disputed property tax amounts to (SAR 124,403.90). After subtracting the certificate value of (SAR 50,000), the remaining amount is (SAR 74,403.90). Adding the fine of (SAR 11,161.00) results in a total amount due of (SAR 85,564.90). Consequently, the Department has decided to reject Plaintiff's claim on this regarding.

Second: The late payment penalty, the dispute lies in the Plaintiff's claim to cancel the Defendant's decision to impose the late payment penalty resulting from the revaluation of the sold property according to (SADAD) payment system invoice under reference number (...) on 24/11/1442AH corresponding to 04/07/2021AD for deed No. (...) with post-amendment tax amounting to (SAR 85,564.90) for disposal of a property valued at (SAR 2,488,078). This tax is based on Defendant's revaluation of the property. The Department has rejected Plaintiff's objection to Defendant's decision regarding revaluation and imposition of the real estate transaction tax based on fair value, thus affirming validity of Defendant's decision. Since the fine in dispute is a result of the revaluation decision and directly related thereto, validity of the fine is confirmed. This conclusion is supported by paragraph (c) of Article (8) of Implementing Regulations of the Real Estate



Transaction Tax, which states: "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: 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." Therefore, the Department ends up rejecting Plaintiff's claim in this regard.

Based on the foregoing, and after deliberation, the Department decided unanimously.

Decision:

- Dismiss the claim of Plaintiff.

This decision was made in presence of both parties. The date the decision is filed in the electronic system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of delivery. The parties involved have the right to appeal the decision within thirty days from the day after its receipt. If no appeal is submitted within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1607)
Delivered in Case No. (R-
133347-2022)

Keywords:

Real estate transaction tax – seizure of real estate - rejection of Plaintiff's claim.

Abstract:

Plaintiff claims to oblige Defendant to recover the real estate transaction tax in the amount of (SAR 68,290) for not completing the sale, and in substance, the dispute lies in Plaintiff's claim to the Defendant to recover the amount of the real estate transaction tax in the amount of (SAR 68,290) resulting from his seizure of a property in project in Jeddah valued at (SAR 1,365,800), with payment of real estate transaction tax in the amount of (SAR 68,290), as in the contract concluded No. (5387) dated 03/08/2021 AD, and payment of an amount of (SAR 500,000), as in receipt No. (FT2123H6LFB) dated 11/08/2021 AD, and the transfer receipt dated 11/08/2021 AD, and he canceled the seizure on 25/05/2022 AD. By informing the Department of case file and the attached contract, Plaintiff did not provide proof of cancellation of the real estate transaction and the nature of transaction concluded with ..., which the Department considers to be a rejection of Plaintiff's claim, leading to: To dismiss the Plaintiff case.

Documents:

Articles (2) and (5/1) of Implementing Regulations of [the Real Estate Transactions Tax issued by Ministerial Decision No. \(712\) of 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 05/10/2022 AD, the First Chamber to Adjudicate VAT Violations and Disputes met in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and formed under Royal Order No. (13957) dated 26/02/1444 AH, convened to review the aforementioned case. As the case met the prescribed legal requirements, it was submitted to the General Secretariat of Tax Committees on 12/06/2022 AD.

Case facts are summarized as follows: ..., under National ID No. (...), filed a claim on his own behalf against the Defendant Company ..., holding Commercial Register No. (...). The claim requests that the Defendant Company be ordered to refund the real estate transaction tax amounting to (SAR 68,290), which was paid due to the incomplete sale.

On Tuesday, 13/09/2022 AD, the Department conducted its First session via videoconference to review the case filed by ..., National ID No. (...), against ... Company, Commercial Register No. (...). The Plaintiff, ..., National ID No. (...), was present, while the Defendant was represented by ..., National ID No. (...), whose proxy did not have the legal authority to represent the Defendant



in this case. Representative of the Defendant was notified that he needed to present a valid power of attorney granting him the authority to represent the Defendant in this case. Consequently, the hearing was adjourned to Tuesday, 20/09/2022 AD.

On Tuesday, 13/09/2022 AD, the Department convened its Second session via videoconference to address the case filed by..., National ID No. (...), against Company..., Commercial Register No. (...). The Plaintiff, ..., National ID No. (...), attended the session, while the Defendant was represented by ..., National ID No. (...), who appeared as Defendant's representative under Power of Attorney No. (...). After confirming validity of Parties' attendance by reviewing their national identity cards through a magnifying window and verifying their statuses, the Department decided to proceed with consideration of the case. The Plaintiff sought a refund of the value-added tax amounting to (SAR 68,290), which he had paid in advance for seizure of a plot of land under development. After canceling the seizure, a Third party reimbursed him for the advance payment, but the Defendant did not return the tax amount. Plaintiff's request for a refund was detailed in the statement of claim. When asked for a response to Plaintiff's case, Defendant's representative requested additional time to prepare and submit a written response, along with all relevant documents, at the next session. After discussing the matter, the Department agreed to grant the Defendant representative's request for an additional two weeks to submit his written response and documents. Plaintiff will be provided with a copy of these submissions for review and reply if desired. Hence, Hearing of the case was rescheduled to Wednesday, 05/10/2022 AD.

On Wednesday, 05/10/2022 AD, The Department held its Third session remotely via remote video litigation procedures; pursuant to provisions of Clause (2) of Article (15) of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441AH; By summoning on Parties to the case, Plaintiff, holding national ID No. (...) attended, and, holding national ID No. (...), attended in his capacity as Defendant representative under power of attorney No. (...). After confirming validity of Parties' attendance by reviewing their national identity cards through a magnifying window and verifying their statuses, the Department decided to proceed with consideration of the case. At this hearing, Defendant's representative provided a copy of the sale contract between the Plaintiff and another party. By asking Parties to the case what they would like to add, they decided to settle for the above. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds:

After reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15 /01/1425 AH and its amendments, and its Implementing Regulations issued by virtue of Minister of Finance Decision No. (1535) dated 11/06/1425 AH and its amendments, and after reviewing the rules of tax committee procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations.

In form, since the Plaintiff filed the case through the electronic portal on 12/06/2022 AD and the due date for the amount claimed was 03/08/2021 AD, the case was filed within the regular period specified in Paragraph (8) of Article (67) of the Income Tax Law, as amended by Royal Decree No. (M/113): "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim, or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee", which means that the case must be accepted in form.

On **merits**, upon reviewing case documents and the responses from both parties, the Department determined that the dispute centers on Plaintiff's request for the Defendant to refund the real estate transaction tax amounting to (SAR 68,290). This tax was incurred from Plaintiff's seizure of a property in project in Jeddah valued at (SAR 1,365,800), with payment of real estate transaction tax in the amount of (SAR 68,290), as in the contract concluded No. (5387) dated 03/08/2021 AD, and payment of an amount of (SAR 500,000), as in receipt No. (FT2123H6LFB)



dated 11/08/2021 AD, and the transfer receipt dated 11/08/2021 AD, and he canceled the seizure on 25/05/2022 AD. By informing the Department of case file and the attached contract, Plaintiff did not provide proof of cancellation of the real estate transaction and the nature of transaction concluded with ..., as Article (2) of the RETT Implementing Regulations stipulates that: "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". Whereas Paragraph (1) of Article (5) of RETT Implementing Regulations stipulates that: "The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom", the matter which the Department considers to be a rejection of Plaintiff's claim.

The Department, after unanimous deliberation, decided.

Decision:

First: Accept the case in form.

Second: On Merits: To dismiss the Plaintiff case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. The decision shall become final and enforceable after expiration hereof.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1614)
Delivered in Case No. (R-
98379-2022)

Keywords:

Real estate Transaction tax – Late Payment Fine – Annulment of Defendant's Decision.

Abstract:

The Plaintiff seeks to annul ZATCA's decision on revaluing the real estate transaction tax, issued under request No. (138562) and impose a real estate transaction tax of (SAR 21,204.90) and a late payment fine of (SAR 12,722.94). On merits, The Plaintiff contested this decision, stating that he had objected to ZATCA regarding a property made up of 23 plots, which was wholly sold under a single contract. ZATCA accepted the objection for 18 plots but rejected 5 plots without providing reasons in the rejection notices issued thereby. In response to Defendant's memo, which argued that the reported value of the properties did not reflect their actual value and was less than the market value according to the Ministry of Justice data, the Plaintiff highlighted in his reply that he had previously provided an explanation and necessary documents to ZATCA. He also argued that the market value mentioned, based on the Ministry of Justice data, was an unrealistic estimate. The Plaintiff attached the results of property revaluation. Since Defendant (ZATCA) did not clarify the method used to assess the property at a higher value than the disclosed value or provide the necessary supporting documents for calculating the difference, the Department decides to cancel Defendant's decision on this matter. Regarding the late payment fine, since the penalty resulted from not paying the difference in tax within the legal period, and as this penalty followed from the First Clause where revaluation led to a higher real estate disposal tax than legally due, the Department concludes to cancel Defendant's action imposing the penalty. Therefore: Defendant decision has been annulled.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 20/11/2022 AD, the First Department to adjudicate VAT violations and disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and formed under Royal Order No. (13957) dated 26/02/1444 AH, convened to review the aforementioned case. As the case met the prescribed legal requirements, it was submitted to the General Secretariat of Tax Committees on 16/03/2022 AD.

The details of this case are summarized in the fact that: ..., holding National ID No. (...) on behalf of himself, submitted a claim objecting to ZATCA's decision regarding revaluation of the real estate transaction tax issued under request (138562), imposition of an additional real estate transaction tax amounting to (SAR 21,204.90), and a late payment fine of (SAR 12,722.94), and requesting annulment of Defendant's decision.



By presenting the statement of claim to the Defendant, a two-page response memorandum was submitted then reviewed by the Department.

The Plaintiff submitted a one-page memorandum, which was reviewed with the Department. On Sunday, 20/11/2022, The Department held its First session remotely via remote videos litigation procedures; pursuant to provisions of Clause (2) of Article (15) of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. Parties to the case were summoned, and (...), with ID No. (...), attended as the legal representative of Plaintiff under power of attorney No. (...). Additionally, (...), with National ID No. (...), attended as representative of ZATCA under authorization No. (...). After verifying their attendance and identities through their national identity cards, the Department decided to proceed with the case. Plaintiff's representative requested annulment of Defendant's decision regarding revaluation of the real estate transaction tax, issued under request No. (138562), and imposition of a real estate transaction tax amounting to (SAR 21,204.90), along with a late payment fine of (SAR12,722.94), as detailed in the statement of claim. When asked about Defendant's response to Plaintiff's case, Defendant's representative upheld the validity of ZATCA's decision based on the details provided in the response memo submitted in reply to Plaintiff's claim. When inquiring if either party had anything further to add, both parties stated they had nothing to add beyond what had already been presented. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds:

Having investigated case files and reviewed the Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA Board Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, GCC Unified VAT Agreement as well as other relevant laws and regulations.

In form, since Plaintiff filed its case to request cancellation of Defendant decision on re-evaluation of the real estate transaction tax based on the Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On **merits**, having reviewed the entire case file and the defenses presented, it is evident that the Plaintiff objects to Defendant's decision to revalue the real estate transaction tax issued under request No. (138562), and imposition of a real estate transaction tax amounting to (SAR 21,204.90), along with a late payment fine of (SAR 12,722.94). The Plaintiff stated that he had filed an objection with ZATCA regarding a property consisting of 23 plots, which was sold in its entirety to a single entity under one sale contract. ZATCA approved the objection for 18 plots but rejected 5 plots without providing reasons in the rejection notices. Defendant's response memo argues that the reported value of properties does not reflect their actual value and is below the market value according to the Ministry of Justice data. The Plaintiff, in his reply to Defendant's memo, stated that he had previously explained the sale process and provided the necessary documents to ZATCA. He added that the market value mentioned according to the Ministry of Justice data is an unrealistic estimate. By reviewing case file, Plaintiff attached the results of revaluation of the property detailing as follows: deed No. (820213009096). Sale price after amendment: SAR (956,598) – Tax: SAR (21,204.90). ZATCA's reasoning: "The declared value is less than property market value - in violation of provisions of Article (4) of the Regulations", late payment fine (SAR



12,722.94). Total amount due: (SAR 33,927.84). Building on the foregoing, and whereas Defendant (ZATCA) did not explain the method used to calculate property's value at a higher amount than the disclosed value, nor did they provide the necessary supporting documents that justified the calculated difference. The Department therefore decides to cancel Defendant's decision on this matter.

Regarding the late payment fine, since the previous Clause led to the cancellation of Defendant's decision based on the findings, and given that the fine was incurred due to the failure to pay the tax difference within the statutory period, and since the fine resulted from the revaluation leading to a higher real estate transaction tax than legally required, the Department concludes that Defendant's action in imposing the fine shall also be canceled.

The Department, after unanimous deliberation, decided.

Decision:

First: Accept the case in form.

Second: On Merits: Annul Defendant's decision regarding revaluation of the real estate transaction tax, issued by request No. (138562), and impose a real estate transaction tax in the amount of (SAR 21,204.90), and a fine for late payment in the amount of (SAR 12,722.94).

The decision was made in presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-90597)
Delivered in Case No. (R-2022-90597)

Keywords:

Revaluation – Real Estate Transaction Tax – Delay in Payment Penalty – Satisfaction of Gift Condition – Fair Market Value – Rejection of Plaintiff's Claim.

Abstract:

Claiming the Plaintiff to ZATCA's decision regarding revaluation of the real estate transaction tax, issued under request No. (...), and imposing the real estate transaction tax in the amount of (SAR 70,318,27), and the fine for late payment in the amount of (SAR 24,611) - The Plaintiff established his objection that he sold his house to his wife with the aim of obtaining bank financing in the amount of (SAR 670,000) as in deed No. (...) on (12/08/1442 AH) corresponding to (26/03/2021AD), supported by the real estate financing contract in the form of Murabaha No. (...) on (10/03/2021 AD) from Banking investment company. The Plaintiff noted that he attached certificate proving that the Kingdom shall bear the real estate transactions tax imposed on the First dwelling for his wife. ZATCA responded by stating that disposition was below its fair market value based on the Ministry of Justice data, leading to an estimated property value. Since any legal disposition transferring ownership or possession of property requires a 5% tax on the total value, regardless of property's condition, form, or use at the time of disposition—unless explicitly exempted—it was confirmed to the Department that the Plaintiff completed a real estate disposition, acknowledged the sale at below the fair market value, and did not contest the estimated value. The Defendant (ZATCA) evaluated the contested property based on its authority under Article (6) of the Implementing Regulations. Disposition was not exempt from the tax under Paragraph (A/6) of Article (3) of the Implementing Regulations due to the absence of a documented gift condition from the competent authority. Therefore: To dismiss the Plaintiff case.

Documents:

- Article 43 of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Articles (6/3/A) and (6, 4, 2, 1) and (5/1) of [Implementing Regulations of the Real Estate Transactions Tax issued by Ministerial Decision No. \(712\) of 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 26/12/2022 AD, the First Department to adjudicate Value Added Tax violations and disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and formed under Royal Order No. (13957) dated



26/02/1444 AH, convened to review the aforementioned case. As the case met the prescribed legal requirements, it was submitted to the General Secretariat of Tax Committees on 10/01/2022 AD.

The details of this case are summarized in the fact that: ..., holding National ID No. (...) on behalf of himself, submitted a claim objecting to ZATCA's decision regarding revaluation of the real estate transaction tax issued under request No.(...), imposition of an additional real estate transaction tax amounting to (SAR 70.318.27), and a late payment fine of (SAR 24.611), and requesting annulment of Defendant's decision.

By presenting the statement of claim to the Defendant, a two-page response memorandum was submitted then reviewed by the Department.

On Monday, 26/12/2022 AD, The Department held its session remotely in accordance with the remote video litigation procedures; pursuant to the provisions of Clause (2) of Article (15) of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and 12/18/2019 AD. When calling Parties to the case, the Plaintiff and ..., who holds National ID No. (...), attended as ZATCA's representative under authorization No. (...) issued by ZATCA. After verifying attendance and identities of the Parties through their national ID cards via a magnifying window, the Department decided to proceed with consideration of the case. The Plaintiff sought to annul ZATCA's decision regarding revaluation of the real estate transaction tax amounting to (SAR 70,318.27) and imposition of a late payment fine of (SAR 24,611), referenced under number (...). The request was based on the details provided in the statement of claim. When asked about her response to Plaintiff's claim, Defendant's representative defended the validity of ZATCA's decision, citing details in the response memo submitted in reply to Plaintiff's claim. When asked if either party had anything additional to add, both parties stated that they had nothing further to present beyond what had already been submitted. As such, after discussion, the Department decided to close pleadings and adjourn the session for deliberation and issuance of decision

Grounds:

Having investigated case files and reviewed the Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA Board Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, GCC Unified VAT Agreement as well as other relevant laws and regulations.

In Form: Since Plaintiff filed its case to request cancellation of Defendant's decision on revaluation of the real estate transaction tax based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: After reviewing the entire case file and the defenses presented, it is evident that Plaintiff requested Defendant (ZATCA) to cancel revaluation of the property, which was assessed at (SAR 2,406,365.38) instead of the declared value of (SAR 670,000). This revaluation led to a real estate transaction tax of (SAR 70,318.27) because the declared value was lower than property's market value. The Plaintiff argued that he sold his house to his wife to secure bank financing of (SAR 670,000), as documented in deed No. (...) on (12/08/1442 AH) corresponding to (26/03/2021AD), supported by the real estate financing contract in the form of Murabaha No. (...) on (10/03/2021 AD) from Banking investment company. The Plaintiff noted that he attached the certificate proving that the Kingdom shall bear the real estate transactions tax



imposed on the First dwelling for his wife, ..., with National ID No. (...). Having reviewed Defendant's (ZATCA) response memorandum, it indicated that the transaction was valued less than its fair market value according to the data registered with the Ministry of Justice and that property's value was estimated based on Articles (4) and (6) of the Implementing Regulations.

Since any legal transaction transferring ownership or possession of property, for the purpose of ownership or benefit, is subject to a tax of 5% of the total value of the real estate transaction, regardless of its condition, form, or use at the time of disposition, unless exempted under Article (3) of the Implementing Regulations for Real Estate Transaction Tax. Case facts show that the Plaintiff executed a real estate transaction, acknowledged selling the property below its fair market value, and did not challenge the estimated value. The Defendant (ZATCA) assessed property's value based on its authority under Article (6) of the Implementing Regulations. The transaction does not qualify for a tax exemption according to Paragraph (A/6) of Article (3) of the Implementing Regulations due to the failure to meet the documented gift condition mandated by the competent authority. Article (1) of the Implementing Regulations defines the tax as follows: "RETT: "The financial amount imposed on the real estate transaction," as defined in Article (1) of the Implementing Regulations for Real Estate Transaction 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." - Article (2) Paragraph (2) of Implementing Regulations of the Real Estate Transaction Tax states that: "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", while Article (4) of Implementing Regulations of the Real Estate Transaction Tax stipulates that: "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". Paragraph (1) of Article (5) of the RETT Implementing Regulations stipulates that "The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom". In addition, Article (6) of Implementing Regulations of the Real Estate Transaction Tax stipulates that: "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", which leads the Department to reject Plaintiff's objection on this Clause.

Regarding late payment fine, since the Department concluded, in the First Clause related to the final assessment of tax period subject matter of the Case, to dismissing Plaintiff's objection, and since the related matters shall have the same force and effect; therefore, in accordance with provisions of Article (43) of Value Added Tax Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department dismisses Plaintiff's objection to this Clause.

Decision:

First: Accept the case in form.

Second: On Merits: To dismiss the Plaintiff case.



This decision was rendered in presence of both parties. In addition, the Department set thirty (30) days as a date for receiving copy of the decision, and may extend delivery date for another (30) days. However, either party to the Case may request to appeal decision within thirty (30) days as of the day following the date specified for its receipt. In addition, the decision shall become final and enforceable after expiration of such period.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes

Decision No. (VR-2022-94411)
Delivered in Case No. (R-2022-94411)

Keywords:

Real Estate Transaction Tax (RETT) - RETT Reassessment - Late Payment Fine - The Ministry of Justice website does not differentiate between the sale of undeveloped land and land with a villa or building - Mechanism for calculating value of property at a value higher than the disclosed value.

Abstract:

Plaintiff claims to cancel ZATCA decision regarding RETT reassessment issued under Application No. (...), and to impose RETT of SAR 21,092 plus a late payment fine of SAR 11,537. Plaintiff grounded the objection on the fact that the land was sold through ... Bank. The procedures began with an on-site inspection of the land, sending authorized representatives to inspect and assess the land and ensure that the sale price was in line with current market prices. The land was transferred for an amount of SAR 800,000 after completing Bank's procedures. In addition, Plaintiff stated that the Ministry of Justice website does not differentiate between the sale of undeveloped land and land with a villa or building, in addition to failure to mention land frontages, street length or equal sides. In addition, Plaintiff mentioned the possibility of addressing ... Bank to obtain the report of accredited valuation committee. Plaintiff added that the sold land is not rectangular and lacks water and sewage services, and claims the acceptance of sale amount. Therefore, ZATCA responded that, according to the powers stipulated by the Law, ZATCA shall be entitled to reevaluate properties. It found that the declared value of properties did not reflect their actual value and was lower than market value. Accordingly, Defendant adjusted the amount of RETT due based on the laws and regulations. The Department found that Defendant did not explain, in the answer or the notice of revaluation results, the mechanism for calculating property's value in an amount higher than the disclosed value. In addition, Defendant did not submit the necessary supporting document, on which the variance was based. Regarding the late payment fine, the Department concluded, in the First Clause related to the final assessment of tax period in question, to cancel Defendant's decision since the related matters shall have the same force and effect. Therefore: The Department cancels Defendant's decision regarding the late payment fine.

Documents:

- Article 43 of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Articles (2) and (4) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/02/1442 AH](#)

Facts:





Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 20/12/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/02/1425 AH as amended, and formed by Royal Order No. (13957) dated 26/02/1444 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 05/02/2022 AD.

The facts of this Case are summed in that ..., holder of National ID No. (...), in person, submitted a statement of claim, including objection to ZATCA decision regarding RETT reassessment issued under Application No. (...), imposing RETT of SAR 21,092 and a late payment fine of SAR 11,537 and requests the Department to cancel Defendant's decision.

When presenting the statement of claim to Defendant, Defendant submitted a one-page answer that the Department have taken cognizance thereof.

In addition, Defendant submitted a two-page supplementary memorandum that the Department have taken cognizance thereof.

When the answer was presented to Plaintiff, Plaintiff submitted a two-page replication that the Department have taken cognizance thereof.

On Tuesday, 20/12/2022 AD, the Department held its First session remotely in accordance with remote litigation procedures pursuant to provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder of National ID No. (...), appeared on behalf of Plaintiff under POA No. (...), and ..., holder of National ID No. (...) appeared on behalf of ZATCA under ZATCA POA No. (...). After verifying presence of parties by displaying each one's national ID through a magnified window and validating their respective capacities, the Department decided proceeding with Case consideration. In addition, Plaintiff's attorney requested canceling ZATCA decision regarding RETT reassessment of SAR 21,092 and imposing late payment fine of SAR 11,537 under Ref. No. (189205) as detailed in the statement of claim. Having asked Defendant's attorney about answer to Plaintiff's claim, Defendant's attorney insisted on accuracy of ZATCA decision as detailed in the answer submitted in response to Plaintiff's claim. When asked if either party had anything additional to add, both parties stated that they had nothing further to present beyond what had already been submitted. As such, after discussion, the Department decided to close pleadings and adjourn the session for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement GCC States, the relevant laws and regulations.

In Form: Since Plaintiff filed the Case to request that Defendant's decision regarding RETT reassessment be canceled based on Value Added Tax Law and its Implementing Regulations. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee to Adjudicate Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity, and within the legal time-limit. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of the entire Case file and the included pleas, it turns out that Plaintiff objects to Defendant's decision regarding RETT reassessment issued under



Application No. (...), and imposing RETT of SAR 21,092 and a late payment fine of SAR 11,537. Plaintiff stated in the statement of claim that the land was sold through ... Bank. The procedures began with an on-site inspection of the land, sending authorized representatives to inspect and assess the land and ensure that the sale price was in line with current market prices. The land was transferred for an amount of SAR 800,000 after completing Bank's procedures. Plaintiff indicated that the Ministry of Justice website does not differentiate between the sale of undeveloped land and land with a villa or building, in addition to failure to mention land frontages, street length or equal sides. In addition, Plaintiff mentioned the possibility of addressing ... Bank to obtain the report of accredited valuation committee. Plaintiff added that the sold land is not rectangular and lacks water and sewage services, and claims the acceptance of sale amount. Therefore, ZATCA replied in its answer that, according to the powers stipulated by the Law, ZATCA shall be entitled to reevaluate the property. It found that the declared value of properties did not reflect their actual value and was lower than market value. Accordingly, Defendant adjusted the amount of due tax in accordance with Article (4) of RETT Implementing Regulations. Having taken cognizance of Case file, the Department found that Defendant (ZATCA) did not explain, in the answer or the notice of revaluation results, the mechanism for calculating property's value in an amount higher than the disclosed value. In addition, Defendant did not submit the necessary supporting document, on which the variance was based. Article (2) of RETT Implementing Regulations states: "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." Therefore, the Department concludes to canceling Defendant's decision regarding this Clause.

Regarding late payment fine, since the Department concluded, in the First Clause related to the final assessment of tax period subject matter of the Case, to dismissing Plaintiff's objection, and since the related matters shall have the same force and effect; therefore, based on provision of Article (43) of Value Added Tax Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department dismisses Plaintiff's objection to this Clause.

Decision:

First: Accept the Case in form.

Second: With regard to merits: Cancel Defendant's decision regarding RETT reassessment of SAR 21,092 and imposing late payment fine of SAR 11,537.

This decision was rendered in presence of both parties. In addition, the Department has set a period of thirty (30) days for receiving a copy of the decision, and may extend delivery date for another thirty (30) days. This decision shall be final and enforceable in accordance with provisions of Article 42 of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VR-2023-91369)
Delivered in Case No. (R-2022-
91369)

Keywords:

Real Estate Transaction Tax (RETT) - RETT Reassessment - Late Payment Fine - A partnership agreement for purchase of land that is not authenticated by a lawyer for the purpose of subdividing property and transferring partner's portion.

Abstract:

Plaintiff's claim to cancel ZATCA decision regarding RETT reassessment issued under Application No. (467859) and imposing RETT of SAR 15,226.05 plus a late payment fine of SAR 5,311. The Department found that Plaintiff claimed that Property No. (...), Plan No. (...), located in Namar District, Riyadh, that was purchased in the amount of SAR 785,000 as stated in Title Deed No. (...) dated 06/09/1442 AH corresponding to 18/04/2021 AH in partnership with ... as per the partnership agreement to purchase land dated (15/04/2021 AD) that was not authenticated by a lawyer for the purpose of subdividing property and transferring partner's portion to him as stated in Title Deed dated (14/09/1442 AH) corresponding to (26/04/2021 AD) of plot No. (1170/1) of the same plan at a value of SAR 1,000. RETT was imposed twice on the same transaction. Since any legal transaction transferring property ownership or possession for the purpose of ownership or usufruct requires imposing a tax of 5% out of total transaction value, regardless of property's condition, form or use at the time of transaction, except for those exempted according to laws and regulations. Although Defendant failed to reply to the correspondence, Plaintiff submitted a partnership agreement to purchase land that was not authenticated by a law office. In addition, Defendant assessed the property in question according to laws and regulations. Regarding late payment fine, since the above Clause upheld Defendant's decision as stated in the Clause. Since the late payment fine resulted from failure to pay tax variance within the statutory period. Since the late payment fine resulted from the First Clause as the reevaluation resulted in a tax amount higher than the amount that is legally due as stated. Therefore: The Case shall be dismissed.

Documents:

- Article (42.1) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles (3.B) and (6) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions. ◇



On Tuesday, 30/01/2023 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/02/1425 AH as amended, and formed by Royal Decree No. (13957) dated 26/02/1444 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 17/01/2022 AD.

The facts of this case are summed in that ..., holder of National ID No (...), in person, submitted a statement of claim, including objection to ZATCA decision regarding RETT reassessment issued under Application No. (467859) and imposing RETT of SAR 15,266.05 and a late payment fine of SAR 5,311, and requests canceling Defendant's decision.

By presenting the statement of claim to Defendant, a two-page answer was submitted then reviewed by the Department.

In addition, Plaintiff submitted a one-page memo that the Department has taken cognizance thereof.

On Sunday, 20/12/2022, the Department held its First session remotely in accordance with remote litigation procedures pursuant to provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, neither Plaintiff nor his attorney appeared despite of being served of session date via e-mail registered in Case file. In addition, ..., holder of National ID No (...) appeared on behalf of ZATCA under ZATCA POA No. (...). Since neither Plaintiff nor his attorney appeared at that session despite of being served of its date; therefore, the Department decided non-suit.

On Sunday, 20/12/2022 AD, Plaintiff requested the Department to proceed with Case consideration.

On Tuesday, 24/12/2022 AD, the Department held its session remotely in accordance with remote litigation procedures pursuant to provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, Plaintiff appeared and ..., holder of National ID No (...), appeared on behalf of ZATCA under ZATCA POA No. (...). After verifying presence of parties by displaying each one's national ID through a magnified window and validating their respective capacities, the Department decided proceeding with Case consideration. At the beginning of session, the Department asked both parties to the Case if they desire to add any memorandums, but they satisfied with what they previously submitted. The Department asked Plaintiff to submit the documents that support the Case. In addition, Plaintiff requested a period to provide such documents in next session. After discussion, the Department decided responding to Plaintiff's request and give a period of (4) days for providing documents and postponed Case consideration to the session of Tuesday, 30/01/2023 AD.

On Tuesday, 30/01/2023 AD, the Department held its second session after rescheduling the Case remotely in accordance with remote virtual litigation procedures, pursuant to provisions of Article 15.2 of Tax Dispute and Violation Committee Procedure issued by Royal Order No. (26040) dated 21/04/1441 AD. Having called parties to the Case, Plaintiff appeared, and ..., holder of National ID No. (...) appeared on behalf of ZATCA under ZATCA POA No. (...). After verifying presence of parties by displaying each one's national ID through a magnified window and validating their respective capacities, the Department decided proceeding with Case consideration. Having asked Plaintiff about documents for which he was given a period for submission in preceding session, Plaintiff stated that he attached such documents to Case file and requests refunding RETT of SAR 15,226.05 and imposing a late payment fine of SAR 5,311 under Ref. No. (467859). Having asked Defendant about its answer to Plaintiff's claim, Defendant insisted on accuracy of ZATCA decision as detailed in answer submitted in reply to Plaintiff's claim. Having asked both parties to the Case if they would like to add any memorandums, each party satisfied with the submitted ones. As such, after discussion, the Department decided to close pleadings and adjourn the session for deliberation and adjudication.



Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since Plaintiff filed the Case to cancel Defendant's decision regarding RETT reassessment based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: Having taken cognizance of the entire Case file and the included pleas, it turns out that Plaintiff objects to Defendant's decision regarding RETT reassessment issued under Application No. (467859) and imposing RETT of SAR 15,226.05 plus a late payment fine of SAR 5,311. Plaintiff requested the foregoing on the pretense that the declared value is lower than the market value of property according to Ministry of Justice index. When the Department took cognizance of Plaintiff's statement of claim and submitted documents, Plaintiff argued that property No. (1170) in plan No. (3020/D) located in Namar District, Riyadh, was purchased in value of SAR 785,000, as stated in Title Deed No. (...) dated 06/09/1442 AH corresponding to 18/04/2021 AD in partnership with ... as per the partnership agreement to purchase land dated (15/04/2021 AD) that was not authenticated by a lawyer for the purpose of subdividing property and transferring partner's portion to him as stated in Title Deed dated (14/09/1442 AH) corresponding to (26/04/2021 AD) of plot No. (1170/1) of the same plan at a value of SAR 1,000. RETT was imposed twice on the same transaction. Since any legal transaction transferring property ownership or possession for the purpose of ownership or usufruct requires imposing a tax of 5% out of total transaction value, regardless of property's condition, form or use at the time of transaction, except for those exempted according to Article (3) of RETT Implementing Regulations. Although Defendant (ZATCA) failed to reply to the correspondence, Plaintiff submitted a partnership agreement to purchase land that was not certified by a law office, which falls within the exception stipulated by Article (3.B) of RETT Implementing Regulations. In addition, Defendant assessed the property in question according to Article (6) of RETT Implementing Regulations that states "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." Therefore, the Department dismisses Plaintiff's Case regarding this Clause.

Regarding late payment fine, since the above Clause upheld Defendant's decision as stated in the Clause. Since the late payment fine resulted from failure to pay tax variance within the statutory period. Since the late payment fine resulted from the First Clause as the assessment resulted in calculating a tax higher than the amount that is legally due as stated according to Article (42.1) of Value Added Tax Law. Therefore, the Department upholds Defendant's action regarding fine imposition.



Decision:

First: Accept the Case in form.

Second: On Merits: Dismiss the Plaintiff Case.

This decision was rendered in presence of both parties. In addition, the Department has set a period of thirty (30) days for receiving a copy of the decision, and may extend delivery date for another thirty (30) days. This decision shall be final and enforceable in accordance with provisions of Article 42 of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VR-2023-95595)
Delivered in Case No. (R-2022-
95595)

Keywords:

Real Estate Transaction Tax (RETT) - RETT Reassessment - Imposing RETT - Late Payment Fine - Transfer of Property Ownership by Sale and not a Mortgage – Evaluation Resulted in Calculating RETT in an Amount Higher than the Due Amount - Dismissal of Plaintiff Case.

Abstract:

Plaintiff's objection to ZATCA regarding RETT reassessment issued under Application No. (...) and imposing RETT of SAR 383,913.15 plus a late payment fine of SAR 134,370 and requests canceling Defendant's decision. Regarding the First Clause, the Department concluded that (...) has transferred ownership of the property to Plaintiff (...) as a sale, not as a mortgage. In addition, Plaintiff attached property sale contract, while writing a note that the house is mortgaged, but this is not considered. Moreover, Plaintiff did not provide evidence or attach a deed issued from the Ministry of Justice proving that the property in question is mortgaged and not sold. Regarding late payment fine: The above Clause upheld Defendant's decision as stated in the Clause. In addition, the late payment fine resulted from failure to pay tax variance within the statutory period. Moreover, the late payment fine resulted from the First Clause as the evaluation resulted in a tax amount higher than the amount that is legally due. The Department ruled to: Dismiss Plaintiff Case by canceling Defendant's decision regarding RETT reassessment in the amount of SAR 383,913,15 and imposing late payment fine of SAR 134,370. Decision shall be deemed final and enforceable.

Documents:

- Article (42.1) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 16/01/2023 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Order No. (13957) dated 26/02/1444 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was lodged with the General Secretariat of Zakat, Tax and Customs Committees on 15/02/2022 AD.

The facts of this Case are summed in that ..., holder of National ID No. (...), in person, submitted a statement of claim, including objection to ZATCA decision regarding RETT reassessment issued



under Application No. (...), imposing RETT of SAR 383,913,15 plus a late payment fine of SAR 134,370, and requests the Department to cancel Defendant's decision.

When presenting the statement of claim to Defendant, Defendant submitted a one-page answer that the Department have taken cognizance thereof.

On Monday, 16/01/2023 AD, the Department held its session remotely in accordance with the remote virtual litigation procedures pursuant to provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, it turns out that ..., holder of National No. (...), appeared on behalf of Plaintiff under POA attached to Case file, and ..., holder of National No. (...), appeared on behalf of ZATCA under ZATCA POA No. (...). After verifying presence of parties by displaying each one's national ID through a magnified window and validating their respective capacities, the Department decided proceeding with Case consideration. In addition, Plaintiff's attorney requested the Department to cancel Defendant's decision regarding RETT reassessment in the amount of SAR 383,913,15 and imposing late payment fine of SAR 134,370 under Ref No. (...) as detailed in the statement of claim. Having asked Defendant's attorney about answer to Plaintiff's claim, Defendant's attorney insisted on accuracy of ZATCA decision as detailed in the answer submitted in response to Plaintiff's claim. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided, after discussion, to close pleadings and adjourn the session for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since Plaintiff filed the Case to cancel Defendant's decision regarding RETT reassessment in accordance with Value Added Tax Law and its Implementing Regulations, and since this dispute is a tax dispute that falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity, and within the legal time-limit. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of the entire Case file and the included pleas, it turns out that Plaintiff objects to Defendant's decision regarding RETT reassessment issued under Application No. (...) and imposing RETT of SAR 383,913.15 plus a late payment fine of SAR 134,370. Plaintiff stated in the statement of claim that the property with Title Deed No. (...) was transferred in Plaintiff's name, which is a mortgage in return for a debit owed by the true owner (...) in the amount of SAR 3,750,000 on 29/12/1438 AH, i.e. before promulgation of RETT Implementing Regulations. After paying amount, the property was returned to Plaintiff under Title Deed No. (...) in the amount of SAR 700,000 in the same value of transfer of ownership as a mortgage. In addition, Plaintiff stated in his letter to one of his colleagues (...) that the house is mortgaged in return for an amount of SAR 3,750,000 on 29/12/1438 AH prior to the imposition of tax on residences. Upon repaying amount, he desired to return the deed to his name and contacted ZATCA to inquire about the process of returning deed without paying tax, as it was a mortgage, not a sale. Then, he followed the instructions given by ZATCA and did not receive any further communication afterward. In addition, Plaintiff stated that invoice No. (...) was issued in the amount of SAR 518,283.15 on the house because it was evaluated at eight million, noting that



he transferred house ownership in return for SAR 700,000 by a check that was part of SAR three million loan. Moreover, the sale was completed for the same amount of SAR 700,000, and the house sale contract was attached with a note stating that the house was mortgaged for SAR 3,750,000. In addition, Ministry of Justice Title Deed No. (...) that proves the transfer of ownership thereof to Plaintiff (...) was attached. After the Department had taken cognizance of the entire Case file, it concluded that (...) has transferred ownership of the property to Plaintiff (...) as a sale, not as a mortgage. In addition, Plaintiff attached property sale contract, while writing a note that the house is mortgaged, but this is not considered. In addition, Plaintiff did not provide a deed from the Ministry of Justice proving that the property subject matter of the Case is mortgaged and not sold. Therefore, the Department dismisses Plaintiff's Case regarding this Clause.

Regarding late payment fine: The above Clause upheld Defendant's decision as stated in the Clause. In addition, the late payment fine resulted from failure to pay tax variance within the statutory period. The late payment fine resulted from the First Clause as the evaluation resulted in calculating a tax higher than the amount that is legally due as stated according to Article (42.1) of Value Added Tax Law. Therefore, the Department upholds Defendant's decision regarding fine imposition. After deliberation, the Department unanimously decided:

Decision:

First: Accept the Case in form.

Second: On Merits: Cancel Defendant's decision regarding RETT reassessment in the amount of SAR 383,913.15 and imposing late payment fine of SAR 134,370.

This decision was issued in presence of both parties to the Case. In addition, the Department set thirty (30) days as a date for receiving copy of the decision, and may extend delivery date for another (30) days. However, either party to the Case may request to appeal decision within thirty (30) days as of the day following the date specified for its receipt. In addition, the decision shall become final and enforceable after lapse of such period.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article 33.2 of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh

Decision No. (VR-2023-113291)
Delivered in Case No. (R-2022-
113291)

Keywords:

Real Estate Transaction Tax (RETT) - RETT Reassessment - Imposing RETT - Transfer of Land Ownership in Name of Heirs' Attorney - Deed of Sale - Considering Fair Market Value of Property at the Date of Transaction - Case Dismissal.

Abstract:

Plaintiff's objection to ZATCA decision regarding RETT reassessment and imposing RETT of SAR 27,832.50 and requests canceling Defendant's decision. In addition, Plaintiff stated that the market value upon sale agreed by Plaintiff (Seller) and Purchaser (...), in 1404 AH, was SAR 40,000. However, Purchaser did not transfer land ownership to his name without Plaintiff's knowledge. After several years, Purchaser passed away, and the heirs contacted Plaintiff to request the transfer of land ownership to heirs' attorney. In addition, Plaintiff stated that Plaintiff is discharged since Plaintiff sold the land forty years ago and transferred it to heirs' attorney for the same amount. With regard to the First Clause, the Department concluded that: The deed of sale issued on .../.../1404 AH corresponding to .../.../1983 AD in the amount of SAR 30,000 was submitted. In addition, Plaintiff has transferred land ownership to heirs' attorney in the amount of SAR 40,000. Moreover, Plaintiff stated in the statement of objection that the value received from Purchaser at the time of sale is SAR 40,000, and that considering fair market value of property at the time of transaction by Defendant is considered a correct procedure. The Department ruled to: Dismiss Plaintiff Case, and consider the decision as final and enforceable.

Documents:

- Article (4) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated Safar 15, 1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 18/01/2023 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Order No. (13957) dated 26/02/1444 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was lodged with the General Secretariat of Zakat, Tax and Customs Committees on 03/04/2022 AD.

The facts of this case are summed in that ..., holder of National ID No. (...), in person, submitted a statement of claim, including objection to ZATCA decision regarding RETT reassessment issued



under Application No. (...) and imposing RETT of SAR 27,832,50, and requests canceling Defendant's decision.

On Wednesday, 18/01/2023 AD, the Department held its first session remotely in accordance with the remote virtual litigation procedures pursuant to provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, it found that ..., holder of National ID No. (...), appeared on behalf of ZATCA under ZATCA POA No. (...). After verifying presence of parties by displaying each one's national ID through a magnified window and validating their respective capacities, the Department decided proceeding with Case consideration. Plaintiff requested canceling ZATCA decision regarding imposing RETT of SAR 27,832.50 with Ref No. (...) as detailed in the statement of claim. Having asked ZATCA's attorney about his answer to Plaintiff Case, he stated that an answer that includes a plea in form and another plea on merits was submitted in reply to Plaintiff Case. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided, after discussion, to close pleadings and adjourn the session for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since Plaintiff filed the Case to cancel Defendant's decision regarding RETT reassessment in accordance with Value Added Tax Law and its Implementing Regulations, and since this dispute is a tax dispute that falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity, and within the legal time-limit. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of the entire Case file and the included pleas, it turns out that Plaintiff objects to Defendant's decision regarding RETT reassessment issued under Application No. (...) and imposing RETT of SAR 27,832.50 plus a late payment fine. In addition, Plaintiff stated that the market value upon sale agreed by Plaintiff (Seller) and Purchaser (...), in 1404 AH, was SAR 40,000. However, Purchaser did not transfer land ownership to his name without Plaintiff's knowledge. After several years, Purchaser passed away, and the heirs contacted Plaintiff to request the transfer of land ownership to heirs' attorney. In addition, Plaintiff stated that Plaintiff is discharged since Plaintiff sold the land forty years ago and transferred it to heirs' attorney for the same amount. In addition, a tax amount for the land of SAR 2,000 was paid for completing transfer of ownership. Having taken cognizance of the entire Case file, the Department found that the deed of sale dated .../.../1404 AH corresponding to .../.../1983 AD in the amount of SAR 30,000 was submitted. In addition, Plaintiff has transferred land ownership to heirs' attorney. Furthermore, Plaintiff stated in the statement of objection that the value received from Seller at the time of sale was SAR 40,000. Moreover, Article (4) of RETT Implementing Regulations states: "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 addition, considering fair market value of property by Defendant at the time of transaction is a correct procedure. Therefore, the Department dismisses Plaintiff Case and upholds the procedures taken by Defendant (ZATCA) regarding this Clause.

After deliberation, the Department unanimously decided:

Decision:

First: Accept the Case in form.

Second: On Merits: Dismiss Plaintiff Case.

This decision was issued in presence of both parties to the Case. In addition, the Department set thirty (30) days as a date for receiving copy of the decision, and may extend delivery date for another (30) days. This decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article 33.2 of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
Second Department to Adjudicate Value
Added Tax Violations and Disputes In Riyadh

Decision No. (VSR-2022-2325)
Delivered in Case No. (R-2021-
89147)

Keywords:

Real Estate Transaction Tax (RETT) - RETT Invoice - Imposing Late Payment Fine - RETT Reassessment based on Fair Market Value of Property - Nominal Amount to Prove Transfer of Ownership

Abstract:

Plaintiff's objection to ZATCA decision regarding RETT invoice in the amount of SAR 136,068.50 for transferring property as a gift to his sons in value of SAR 1,000 for property reevaluation by Defendant (ZATCA) and imposing late payment fine resulting from property reevaluation. In addition, Plaintiff requests canceling Defendant's decision. ZATCA argued as follows: ZATCA examined Plaintiff's transaction subject matter of the Case. Such examination resulted in reassessing real estate transaction based on fair market value of property. Accordingly, RETT is calculated for Plaintiff's transaction subject matter of the Case. After ZATCA had found that the contract value does not outline the fair market value of property, ZATCA evaluated the property based on fair value. Therefore, ZATCA imposed RETT at the legal rate. Regarding First Clause, the Department found that Plaintiff submitted a proof of his claim that the market value of property exceeds SAR 2,700,000, while transferring property ownership in value of SAR 1,000, which is the lowest value that can be written down in the deed for completing transaction. This indicates that the amount listed as sale price was nominal to transfer ownership similar to a gift without value, which is an exempted case. Therefore, the sale price stated in the deed shall be accepted. Regarding the Second Clause related to late payment fine resulted from RETT reassessment, since the First Clause resulted in canceling Defendant's decision, and since the late payment fine resulted from the same; therefore, the related matters shall have the same force and effect. Department ruled to accept Plaintiff Case on merits, cancel Defendant's decision regarding RETT reassessment subject matter of the Case and the resulting late payment fine, and deem the decision final and enforceable.

Documents:

- Articles (3), Paragraph (A.1) and (A. 6) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Articles (2) and (3), Paragraph (A.6) and (8.C) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/02/1442 AH](#)

Facts:





Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 16/02/1444 AH corresponding to 12/09/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Order No. (17218) dated 27/03/1442 AH, held a session to consider the above-mentioned Case. Since the case fulfilled the established regulatory requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 27/12/2021 AD.

The facts of this case are summarized in that ..., holder of National ID No. (...), in his capacity as Plaintiff's attorney under POA No. (...), submitted a statement of claim, including his objection to RETT invoice in the amount of SAR 136,068.50 for transferring a property as a gift for his son in value of SAR 1,000 for the purpose of property reevaluation by Defendant (ZATCA) and imposing a late payment fine resulting from reevaluation, and requests canceling Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: First: Subjective Plea: The decision is presumed valid and sound, and whoever claims otherwise should provide proof for his claims. ZATCA examined Plaintiff's transaction subject matter of the Case as stipulated by Article (6) of RETT Implementing Regulations, which states: "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". This examination resulted in reassessing real estate transaction based on fair value of the real property. Accordingly, RETT is imposed on Plaintiff regarding transaction subject matter of the Case. According to ZATCA powers of estimating fair market value of real property conferred in accordance with provision of Paragraph (2) of Article (6) of RETT Implementing Regulations, which states: "For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to: 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." After ZATCA found that the contract value does not outline the actual market value of the real property, ZATCA estimated value of the real property based on fair market value. Accordingly, ZATCA imposed RETT in the legal rate. As such, ZATCA insists on correctness of its procedures subject matter of the Case. With regard to imposing late payment fine by ZATCA regarding the transaction subject matter of the Case, Article (8.C) of RETT Implementing Regulations states: "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 ...". Since Plaintiff did not pay RETT for months next to the due month as a result of difference between the declared RETT and due RETT, late payment fine was imposed. Second: In view of the foregoing, ZATCA requests the Honorable Committee to dismiss the Case for the above-mentioned reasons". End of Answer.

On Monday, 16/02/1444 AH corresponding to 12/09/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder National ID No. (...), appeared in person. In addition, ..., holder of National ID No. (...) appeared on behalf of Defendant (ZATCA) under POA No. (...) dated .../10/1443 AH issued by Vice Governor of Legal Affairs and Compliance. Having asked Plaintiff about his claim, he answered as stated in the statement of claim and insisted on the statements included therein. Having asked Defendant's attorney about his answer, Defendant's attorney insisted on his statements included in the answer. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.



Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of Case documents and answer of both parties to the Case after giving them a period for expressing and submitting their statements and documents, the Department concluded that the dispute involves Plaintiff's claim for Defendant (ZATCA) to cancel RETT invoice as stated in reassessment application form in the amount of SAR 136,068.50 for transferring a real property to his son in the amount of SAR 1,000. Plaintiff stated that he has carried out a real estate transaction by transferring a real property as a gift to his son (...) as stated in Deed No. (...) dated .../11/1442 AH corresponding to .../06/2021 AD in value of SAR 1,000, while paying RETT of SAR 50 as stated in SMS of SADAD Invoice No. (...) dated .../11/1442 AH, supported with attaching national ID card of his son and family register. Plaintiff argues that his son is still a student as stated in the letter of identification attached, and is not able to bear the cost of real property. In addition, the real estate transaction in dispute is excluded since it is a distribution of inheritance and a gift to his son as stipulated in Paragraphs (A.1) and (A.6) of Article (3) of RETT Implementing Regulations. In addition, Article (1) of RETT Implementing Regulations states: "RETT: The financial amount imposed on real estate transaction". In addition, the definition of Real Estate Transaction stipulated in Article (1) of RETT Implementing Regulations states: "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". In addition, Article (2) of RETT Implementing Regulations states: "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". In addition, Paragraph (A.6) of Article (3) of RETT Implementing Regulations states: "A. The following cases shall be excluded, in full or part, from the RETT application scope: 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". Since Plaintiff declared disclosure of sale in the amount of SAR 1,000, but he stated that the transaction is a gift to his son, which is not subject to RETT. Since Plaintiff submitted the documents that prove that the market value of real property exceeds SAR 2,700,000, while transferring ownership of the real property in the amount of SAR 1,000, which is the lowest value that must be written down in the deed for the purpose of completing transaction. This indicates that the amount written down as a sale price is a nominal price for the purpose of transferring ownership in such manner that resembles gift case by transferring ownership of the real property without a value. This case is considered one of the cases excluded according to Paragraph (A.6) of Article (3) of RETT Implementing Regulations, especially since the parties to sale are the father



(transferor, disposer) and the son (transferee, recipient). Therefore, the sale price stated in the deed shall be adopted. Accordingly, the Department cancels Defendant's (ZATCA) decision regarding RETT.

With regard to Second Clause related to late payment fine resulting from reevaluating real property, imposing late payment fine resulting from the final reevaluation notice resulted in a due RETT that was not paid in the due date according to Defendant's pleas based on provision of Paragraph (C) of Article (8) of RETT Implementing Regulations: "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: 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". Since the First Clause resulted in canceling Defendant's decision, and since the late payment fine resulted accordingly; therefore, the related matters shall have the same force and effect. Accordingly, the Department cancels the late payment fine of real estate transaction subject matter of objection.

Based on the foregoing and in accordance with provisions of Common VAT Agreement of GCC States, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

First: Accept the Case in form.

Second: Accept Plaintiff Case on merits, cancel Defendant's decision regarding RETT reassessment subject matter of the Case and the resulting late payment fine.

This decision was rendered in presence of both parties to the Case. In addition, the Date of uploading decision to electronic system of the General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. Moreover, the parties may request to appeal such decision within thirty (30) days as of the day following the date set for receipt of decision. In the event that objection is not submitted within this period, the decision shall become final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

Appeal Committee:

Appeal Committee ruled to uphold Department's decision.



Adjudication Committee
Second Department to Adjudicate Value
Added Tax Violations and Disputes In Riyadh

Decision No. (VSR-2022-2406)
Delivered in Case No. (R-
94902-2022)

Keywords:

Real Estate Transaction Tax (RETT) - Reevaluating Real Property in a Value Higher than Sale Value - Imposing Late Payment Fine - Failure to Submit Necessary Supporting Documents Based on Which Difference is Calculated.

Abstract:

Plaintiff's objection to ZATCA decision regarding real property reevaluation by Defendant in a value higher than sale value, which resulted in due RETT, and imposing late payment fine. In addition, Plaintiff requests the Department to cancel Defendant's decision. ZATCA argued that the declared value of real property does not reflect its true value and is considered lower than market value. Accordingly, ZATCA adjusted the amount of RETT due. With regard to the First Clause, Defendant (ZATCA) did not state, neither in answer nor in reevaluation result notice, the mechanism for calculating value of real property in value higher than the disclosed value. In addition, Defendant did not provide the necessary supporting documents based on which the variance was calculated. With regard to the Second Clause, since the late payment fine resulted accordingly; therefore, the related matters shall have the same force and effect, and since Defendant (ZATCA) did not state the reason for which reevaluation of real property in question and method of evaluation. Department ruled to accept Plaintiff Case on merits, cancel Defendant's decision regarding RETT resulting from reevaluation of real property subject matter of the Case, which resulted in late payment fine, and deem the decision final and enforceable.

Documents:

- Articles (4), (6) and (8.C) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH](#)
- Article (2) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated Safar 15, 1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 05/10/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/03/1442 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 09/02/2022 AD.



The facts of this case are summarized in that ..., in person, holder of National ID No. (...), submitted a statement of claim, including his objection to reevaluation of the real property in a value higher than sale value, which resulted in due RETT and imposing late payment fine, and requests canceling Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: First: Subjective Plea: With regard to RETT due after reevaluation: ZATCA, according to the duly conferred authorities, reevaluated the real property subject matter of the Case. It found that the declared value of real property does not reflect its true value, and is considered lower than the market value. Accordingly, ZATCA adjusted the amount of due RETT in accordance with Article (4) of RETT Implementing Regulations that states: "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 ...", and in accordance with Article (6) of the same Regulations that states: "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." Regarding the late payment fine: Due to the increased RETT due stated hereinabove that is not paid by Plaintiff in the due date, a late payment fine was imposed in accordance with Paragraph (C) of Article (8) of RETT Implementing Regulations, which states: "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." Second: In view of the foregoing, ZATCA requests the Honorable Committee to dismiss the Case for the above-mentioned reasons and uphold ZATCA procedures subject matter of the Case. In addition, ZATCA reserves the right to provide further replies and clarifications until closing pleadings". End of Answer.

On Wednesday, 05/10/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder National ID No. (...) appeared under POA No. (...). In addition, ..., holder of National ID No. (...) appeared on behalf of Defendant (ZATCA) under POA No. (...) dated .../10/1443 AH issued by Vice Governor of Legal Affairs and Compliance. Having asked Plaintiff's attorney about claim of his principal, he answered as stated in the statement of claim and insisted on the statements included therein. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of Case documents and answers of both parties to the Case after giving them a period for expressing and submitting their statements and documents, the Department concluded that the dispute involves RETT and imposing late payment fine.



With regard to the First Clause: RETT, since Plaintiff objects to ZATCA decision due to selling plot No. (...) of plan No. (...) on .../03/2021 AD in the amount of SAR 110,000. In addition, Plaintiff stated that the land is located in a deep pit, which impacted its market value, and stated that he paid SAR 5,500 as RETT under invoice No. (...). Subsequently, Defendant (ZATCA) reevaluated the land without clarifying basis for evaluation. Plaintiff stated that he did not receive any notice at the time of ownership transfer and that the prices in the plan did not reach the level resulting from ZATCA evaluation. Article (2) of RETT Implementing Regulation states: "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." Defendant (ZATCA) did not state, neither in answer nor in reevaluation result notice, the mechanism for calculating value of real property in a value higher than the disclosed value. In addition, Defendant did not provide the necessary supporting documents based on which the variance was calculated. Therefore, the Department cancels Defendant's decision regarding RETT.

With regard to the Second Clause: Imposing late payment fine, since Plaintiff's claim involves canceling late payment fine resulting from reassessing sale of Plaintiff's real property by Defendant (ZATCA). Since the First Clause resulted in canceling Defendant's (ZATCA) decision regarding its procedure, and since the late payment fine resulted accordingly; therefore, the related matters shall have the same force and effect. Therefore, the Department cancels Defendant's (ZATCA) decision of imposing late payment fine. Since Defendant (ZATCA) did not provide the reason for reevaluating real property in dispute and method of its evaluation; therefore, the Department cancels Defendant's (ZATCA) decision regarding RETT.

Decision:

First: Accept the Case in form.

Second: Accept Plaintiff Case on merits and cancel Defendant's decision regarding RETT resulting from revaluation of the real property subject matter of the Case and the consequential late payment fine.

This decision was rendered in presence of both parties to the Case. In addition, the Date of uploading decision to electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. Moreover, the parties may request to appeal such decision within thirty (30) days as of the day following the date set for receipt of decision. In the event that objection is not submitted within this period, the decision shall become final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
Second Department to Adjudicate Value
Added Tax Violations and Disputes In Riyadh

Decision No. (VSR-2022-2597)
Delivered in Case No. (R-
94934-2022)

Keywords:

Real Estate Transaction Tax (RETT) - Real Property Sale - Obliging Defendant to Pay Remaining VAT of Real Estate Supply Subject Matter of the Case.

Abstract:

Plaintiff's claim to oblige Defendant to pay RETT resulting from selling real property. With regard to merits, the dispute involves claim to oblige Defendant to pay RETT resulting from selling real property to client, Mrs. (...). Since provisions of articles of the Agreement, Law and Regulations place the burden of bearing and paying tax on supplier (seller), who collects it from the recipient of goods or services, except in specific cases exempted by a special provision, as stated in Article (30) of the Agreement, which does not appear to apply to Defendant in this case. Given that the effective date of VAT registration, as attached in Case file, is 01/02/2018, it means that its registration was valid during the period of sale, which took place on 12/03/2018. Therefore, Plaintiff is considered a taxable person at the time of real estate supply in question. Plaintiff stated that the bank deposited parts of VAT amount claimed (SAR 3,650), leaving a remaining balance of SAR 42,500, which Defendant confirmed in the rejoinder. Since the Department did not find any documents in Case file that would nullify Plaintiff's right to claim the remaining VAT amount resulting from real estate supply in question. Therefore, the Department accepts Plaintiff's claim. This means: Oblige Defendant to pay Plaintiff an amount of SAR 24,500 that outlines the remaining VAT amount resulting from real estate supply in question.

Documents:

- Article (30) of [Common VAT Agreement of GCC States issued by Royal Decree No. \(M/51\) dated 03/05/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Saturday, 29/10/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/03/1442 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 09/02/2022 AD.

The facts of this case are summed up in that (...), holder of National ID No. (...), filed a Case against Defendant (...), C.R. No. (...), to request the Department to oblige Defendant to pay RETT



resulting from selling real property to client, Mrs. (...), while mentioning in the statement of claim that she does not hold Certificate for First-Time Homeowners.

Having presented the statement of claim to Defendant, it answered as follows: “On 17/06/1439 AH, Plaintiff offered the sale of real property in question in total amount of SAR 923,000 to Mrs. (...). On 24/06/1439 AH corresponding 12/03/2018 AD, the real property was transferred to (...) Company under Deed No. (510216013178) dated 24/06/1439 AH (Exhibit No. 1). Second: The Bank raises a plea in form regarding inadmissibility of the Case, as it is filed against a person without capacity. Since the real property subject matter of the Case was transferred from Plaintiff to (...) Company, while Plaintiff filed his lawsuit against Saudi ... Bank In accordance with Article (76) of the Law of Civil Procedures that states: “1. A motion for lack of jurisdiction; type or value of the suit; dismissal of the suit for lack of capacity, interest or any other ground; or if the suit has been previously decided, shall be admissible at any stage of the hearing and shall be decided by the court on its own motion”. Since Plaintiff should have filed his lawsuit against a party that has a capacity in the dispute subject matter of the Case. Based on the foregoing: The Saudi ... Bank requests the Honorable Committee to rule inadmissibility of the Case as it is filed against a party that does not have capacity in the Case. End of Answer.

On Wednesday, 19/10/2022 AH, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder National ID No. (...) appeared in person. In addition, ..., holder of National ID No. (...) appeared on behalf of Defendant (...). At the session and after taking cognizance of Case documents, the Department asked Plaintiff to provide VAT Registration Certificate. In addition, the Department asked Defendant’s attorney to submit an answer that include the subjective defenses. Thereupon, the Department decided to defer consideration and set a date for next session on 29/10/2022 AD, 03:00 PM.

On Saturday, 29/10/2022 AH, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder National ID No. (...) appeared in person. In addition, ..., holder of National ID No. (...) appeared on behalf of Defendant (...) under POA No. (...). At that session, the Department asked Plaintiff about documents for which a period for submission was given, then Plaintiff submitted VAT Registration Certificate. Having asked Defendant’s attorney about documents for which he was given a period, he answered as stated in the answer and insisted on the statements included therein. Having asked parties to the Case if they would like to add any statements or documents, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn session for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: Since the dispute involves claiming Defendant to pay RETT resulting from selling a real property under Deed No. (91010604336) to client, Mrs. (...). Moreover, Article 14 of the Implementing Regulations of Value Added Tax Law states: “Without prejudice to Article two of



the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom”. In addition, Paragraph (1) of Article (23) of Common VAT Agreement of GCC States: “Tax becomes due on the date of the supply of Goods or Services, the date of issuance of the tax invoice or upon partial or full receipt of the Consideration, whichever comes First, and to the extent of the received amount”. Since provisions of articles of the Agreement, Law and Regulations place the burden of bearing and paying tax on supplier (seller), who collects it from the recipient of goods or services, except in specific cases exempted by a special provision, as stated in Article (30) of the Agreement, which does not appear to apply to Defendant. Given that the effective date of VAT registration, as attached in Case file, is 01/02/2018 AD, it means that its registration was valid during the period of sale, which took place on 12/03/2018 AD. Therefore, Plaintiff is considered a taxable person at the time of real estate supply in question. Plaintiff stated that: “The bank deposited parts of VAT amount claimed (SAR 3,650), leaving a remaining balance of SAR 42,500, which Defendant confirmed in the rejoinder. Since the Department did not find any documents in Case file that would nullify Plaintiff’s right to claim the remaining VAT amount resulting from real estate supply in question. Therefore, the Department accepts Plaintiff Case.

Based on the foregoing and in accordance with provisions of Common VAT Agreement of GCC States, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

- Oblige Defendant (...), C.R. No. (...) to pay Plaintiff (...), holder of National ID No. (...), an amount of SAR 24,500 (forty-two thousand, five hundred Riyals) that outlines the remaining VAT amount resulting from real estate supply in question.

This decision was rendered in presence of both parties. In addition, the Department set thirty (30) days as a date for receiving copy of the decision, and may extend delivery date for another (30) days. In addition, the decision shall become final and enforceable in accordance with provisions of Article 42 of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Article 33.2 of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
Second Department to Adjudicate Value
Added Tax Violations and Disputes In Riyadh

Decision No. (VSR-2022-2666)
Delivered in Case No. (R-2022-
136429)

Keywords:

Real Estate Transaction Tax (RETT) - RETT Initial Assessment - Incorrect Reassessment - Disposing Real Property in a Value Lower than Fair Market Value - There are variances between real property sale price and average market value of the real property in the same plan - Dismissing Plaintiff's Case on Merits.

Abstract:

Plaintiff's claim to cancel Defendant's decision regarding intimal RETT reassessment of a real property sold by Plaintiff. Plaintiff argued that the reevaluation issued by Defendant is incorrect. The Department concluded that Plaintiff disposed of his real property in a value lower than the fair market value available at ZATCA. In addition, it turns out that there are variances between sale prices of Plaintiff's real property and average market value in the same plan. Moreover, Plaintiff declared that the price of real property sale is lower than the fair market value. This is not affected by his claim of errors made by a consulting office in the construction on his land, as this matter could have been addressed through other regulatory frameworks. As for the actions taken by Defendant, the Department does not see anything that contravenes the legal provisions stated in RETT Implementing Regulations. In addition, the Defendant's actions were merely an application of the legal provisions. Therefore: Dismiss Plaintiff Case on merits, and consider the decision as final and enforceable.

Documents:

- Articles (4) and (6) of [RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated Safar 15, 1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Saturday, 06/11/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/03/1442 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 14/07/2022 AD.

The facts of this case are summarized in that ..., holder of National ID No. (...), in person, submitted a statement of objection to Defendant's decision regarding initial assessment of RETT for a real property sold by Plaintiff.



Having presented the statement of claim to Defendant, it answered as follows: First: formal aspect: Having taken cognizance of Plaintiff Case, it turns out that Plaintiff objects to ZATCA decision regarding RETT reassessment of a real property sold by Plaintiff. Thereupon, ZATCA summarizes its answer as follows: With reference to the above Case, we would like to clarify that Plaintiff did not file an objection with ZATCA within the specified period in accordance with provisions of Tax Dispute and Violation Committee Procedures. Article (2) of Tax Dispute and Violation Committee Procedures stipulates that: “Any person against whom a decision has been issued by ZATCA may file an objection before it within 60 days from the date of notification thereof ...”, and since ZATCA decision was issued on 27/10/2021 AD, while Plaintiff's objection was on 20/03/2022 AD; therefore, the period between ZATCA decision and objection date is 60 days. Thereupon, the appealed decision becomes final and unappealable as per Article 3.1 of Tax Dispute and Violation Committee Procedures. Second: On Merits: First: With regard to objection to RETT reassessment Clause, ZATCA exercised the authorities conferred thereupon in accordance with Article (6) of RETT Implementing Regulations, which states: "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." It was found that Plaintiff disposed of his property at a value less than the fair market value available to ZATCA, as during examination and verification phase, MOJ's (Najiz) portal verified average market value of adjacent plots and of the same master plan. It was found that there were differences between Plaintiff's sale prices and average market value of property in the same master plan, which makes it clear that fair market value is higher than sale value according to MOJ's data, since Plaintiff estimated value of property in the amount of SAR (200,000). Property market value was reviewed and the average market value of property price was considered through MOJ official website. It became clear that property average value is estimated at SAR 899,808.00. Accordingly, ZATCA carried out reevaluation process in accordance with Article 4 of RETT Implementing Regulations, which state: “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”. To establish Plaintiff's violation of the above-mentioned article, ZATCA considered the fair market value as a basis for calculation and maturity of RETT, by reassessing value of the real property and transactions. As such, ZATCA procedure shall be valid and correct. Therefore, the Case shall be dismissed, while upholding ZATCA procedure. Second: With regard to Plaintiff's objection to late payment fine: Having reviewed Plaintiff's return, ZATCA found that such return is incorrect, which necessities amending return and issuing a new one. This resulted in variance in value of due RETT that was not paid in the due date. Thereupon, a late payment fine was imposed for months next to the real estate transaction subject matter of the Case as aforementioned in accordance with provisions of Article (8) of RETT Implementing Regulations, which states: “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 ...” Third: Requests: In light of the foregoing, ZATCA requests the Honorable Department to dismiss the case in form for the above grounds reserving its right to provide further responses and clarifications before the closing of the pleadings.” End of Answer.

On Wednesday, 12/10/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder of National ID No. (...), appeared. In addition, ..., holder of National ID No. (...) appeared on behalf of Defendant (ZATCA) under POA No. (...) dated 18/10/1443 AH issued by Vice Governor of Legal Affairs and Compliance. Having asked Plaintiff about his Case, he answered as stated in the statement of and insisted on the statements



included therein. Having asked Defendant's attorney about the Case, he insisted on the statements included in the answer and requested inadmissibility of the Case in form. Having taken cognizance of Case documents, the Department asked Defendant's attorney to submit his subjective defenses. Therefore, Plaintiff's attorney requested a term for the same. In addition, the Department set a date for next session on Thursday, 05/04/1444 AH corresponding to 30/10/2022 AD, 02:00 PM. On Thursday, 30/10/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder of National ID No. (...), appeared. In addition, ..., holder of National ID No. (...) appeared on behalf of Defendant (ZATCA) under POA No. (...) dated 18/10/1443 AH issued by Vice Governor of Legal Affairs and Compliance. Having asked Defendant's attorney about his subjective defenses for which he was given a term for submission, he satisfied with the statements included in the submitted rejoinder and documents. Having presented such defenses to Plaintiff, he satisfied with what previously submitted. Having asked parties to the Case if they would like to add any statements and documents, they satisfied with the documents that they previously submitted. Therefore, the Department decided to adjourn Case hearing for further consideration and set next session on Sunday, 12/04/1444 AH corresponding 06/11/2022 AD, 03:00 PM.

On Sunday, 06/11/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ..., holder of National ID No. (...), appeared. In addition, ..., holder of National ID No. (...), appeared on behalf of Defendant (ZATCA) under POA No. (...) dated 18/10/1443 AH issued by Vice Governor of Legal Affairs and Compliance. Having asked Plaintiff about his claim, he answered as stated in the statement of claim and insisted on the statements included therein. Having asked Defendant's attorney about his answer, he answered as stated in the answer and insisted on the statements included therein. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States and the relevant laws and regulations.

In Form: Since the case was filed on 14/07/2022 AD by a person with capacity, and within period prescribed by law, and the decision was issued to reject the Plaintiff's objection on 28/06/2022, which requires that the case be accepted in form.

On Merits: Having examined the case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that dispute is centered around RETT preliminary assessment on a property sold by it. Since Plaintiff entered a plea that reassessment issued by Defendant was incorrect, as he had a plot of land no. (4225) in Al Khair Master Plan in Riyadh, and his neighbor, owner of adjacent plot number (4223) built on his land number (4225) by mistake as a result of manipulation and poor planning by one of the consulting offices. These lands are equal in terms of borders, lengths and nature. To remedy this mistake between Plaintiff and his neighbor, they agreed to exchange lands by means of selling through a notary public and to set the lowest possible value in order to obtain the lowest tax value.



While Defendant argued that it exercised its power conferred in accordance with Article 6 of the Implementing Regulations of Real Estate Transactions Tax, which stipulated that: "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". It was found that Plaintiff disposed of his property at a value less than the fair market value available to ZATCA, as during examination and verification phase, MOJ's (Najiz) portal verified average market value of adjacent plots and of the same master plan. It was found that there were differences between Plaintiff's sale prices and average market value of property in the same master plan, which makes it clear that fair market value is higher than sale value according to MOJ's data, since Plaintiff estimated value of property in the amount of SAR (200,000). Property market value was reviewed and the average market value of property price was studied through MOJ official website. It became clear that property average value is estimated at SAR (899,808.00). Accordingly, ZATCA carried out reassessment process in accordance with Article 4 of the Regulations, which stipulated that: "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". Having examined the parties' pleas and case file, it is evident to the Department that Plaintiff acknowledges that the price at which property is sold is less than the fair market value, without prejudice to the fact that there were mistakes made by a consulting office regarding building on his land, and the matter could have been dealt with under other legal frameworks. As for the actions taken by Defendant, the Department does not see anything that contravenes the legal provisions stated in RETT Implementing Regulations. In addition, the Defendant's actions were merely an application of the legal provisions.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: Accept the case in form.

Second: Dismiss the Plaintiff's case on merits.

This decision was made in presence of both parties. The Department has set a thirty-day deadline for receiving copy of decision. The Department may extend delivery date for a further thirty days as it deems appropriate. Parties to the case may request an appeal within thirty days from the day following the date specified for its receipt. If no objection is filed within this period, the decision shall become final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
Second Department to Adjudicate Value
Added Tax Violations and Disputes In Riyadh

Decision No. (VSR-2023-2668)
Delivered in Case No. (R-2022-
90051)

Keywords:

RETT - RETT Resulting from Reassessment - Entitlement to Exemption for Holders of First-Time Home Buyers Certificate from Buyer - Attach Spreadsheet Showing Buyer Identity - Accept the Case on Merits.

Abstract:

Plaintiff filed a case seeking cancellation of Defendant's decision regarding imposition of RETT resulting from reassessment. Defendant responded that decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. During objection study phase, ZATCA also examined the First-time homebuyers certificate submitted by Plaintiff and found that the buyer had already been exempted regarding First-time homebuyers. The Department found that Defendant did not provide evidence of the buyer's previous use of the First-time homebuyers certificate, especially since the real estate is not transferred by court or notary public until the transaction data is registered on ZATCA website and invoice of due tax is issued and paid. In the case of Plaintiff, tax due will appear as zero if the First-time homebuyers certificate is valid for the buyer, and if the buyer benefited from it in a previous transaction, a message will appear that the certificate was used in a previous transaction. Defendant attached a spreadsheet showing the buyer's identity and an unclear request number. Therefore: Accept Plaintiff's case on merits, and abolish Defendant's decision on imposition of RETT subject matter of the case. The decision shall be final and enforceable.

Documents:

- Articles (1), (2), and (3) of [the Implementing Regulations of Real Estate Transactions Tax pursuant to Ministerial Decision No. \(712\) dated Safar 15, 1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Saturday, 01/01/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/03/1442 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 04/01/2022 AD.



Facts of the case are summarized that, holder of National ID number (.....), On his own behalf, submitted a statement of claim, in which he objected to Defendant's decision regarding imposition of RETT resulting from reassessment, and demanded that Defendant's decision be overturned. Having presented the statement of claim to Defendant, it answered as follows: First: On Merits: Having perused Plaintiff's statement of claim, which included his objection to ZATCA's decision regarding RETT reassessment, ZATCA summarizes its response as follows: 1. Decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. ZATCA examined transaction carried out by Plaintiff subject matter of the case in accordance with Article (6) of the Implementing Regulations of Real Estate Transactions Tax, which stipulates that "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". This examination resulted in validity of imposing the tax on Plaintiff and, consequently, calculating Plaintiff's RETT for transaction subject matter of the case. With regard to Plaintiff's claim on his entitlement to exemption because he holds the First-time homebuyers certificate, ZATCA, during objection study phase, examined the First-time homebuyers certificate submitted by Plaintiff and found that the buyer had previously been entitled to exemption regarding the First-time homebuyers pursuant to Royal Decree No. (A/84) dated 14/02/1442 AH, which aims at enabling citizens to own their houses and stimulating residential and commercial real estate sector. Accordingly, with reference to the aforementioned Royal Decree, which considered submission of the First-time homebuyers certificate as a condition of exemption, and since the buyer has submitted the certificate for several purchases, ZATCA adheres to validity of its decision subject matter of the case. Second: Requests: Based on the above, ZATCA requests Honorable Committee to dismiss the case for grounds stated above and to uphold ZATCA decision, and ZATCA reserves the right to provide further responses and clarifications until pleadings closing. End of Answer.

On Sunday, 01/01/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree (26040) dated 21/01/1441 AH. Having called parties to case, Mr....., Civil Registry no. (.....) appeared in its own capacity, and Mr....., Civil Registry no. (...), appeared in his capacity as Defendant's representative "ZATCA" by virtue of authorization No. (.....) dated 18/10/1443 AH issued by Vice Governor of Legal Affairs and Compliance. Having asked Plaintiff about his claim, he responded according to contents in statement of claim and adheres to contents therein. Having asked Defendant's representative about his response, he responded according to memorandum of reply and adheres to what contents thereof. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds:

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States and the relevant laws and regulations.

In Form: Since the case was filed by a party with legal capacity and within prescribed statutory period, the Department must therefore accept the case in form.

On Merits: Having examined the case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that



dispute is centered around Plaintiff's claim to Defendant to cancel RETT resulting from reassessment. Since definition of tax in Article (1) of Implementing Regulations of Real Estate Transactions Tax stipulates that: "RETT: "Financial amount imposed on real estate transaction". Definition of real estate transaction in Article (1) of Implementing Regulations of Real Estate Transactions Tax stipulates that: "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". Article 2 of Implementing Regulations of Real Estate Transactions Tax stipulates that: "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 5.1 of the Implementing Regulations of Real Estate Transactions Tax stipulates stipulated that, "The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom." Having perused the entire case file and defenses contained therein, Plaintiff claims to cancel RETT invoice for deed no. (471710009305). Since Plaintiff sold the real estate to.... who provided him with a certificate proving that the State bears the First-time home. Real estate was subject to tax due by Defendant. Having examined Defendant's replication, it indicated that Royal Decree No. (A/84) dated 14/02/1442 AH did not apply to Plaintiff's case, since the First-time homebuyers certificate was previously used in a previous transaction and, as a result, the amount was subject to tax based on Article 4 of the Implementing Regulations. Since any legal act transferring ownership or possession of real estate for the purpose of ownership or possession of its benefit requires a tax of 5% of total value of real estate transaction, regardless of their condition, appearance or use at time of transaction, except for what is exempted according to Article 3 of the Implementing Regulations of Real Estate Transaction Tax. Since Defendant has not provided proof of buyer's previous use of the First-time homebuyers certificate; especially since real estate is not transferred by the court or notary public except after transaction data is registered on ZATCA website, and due tax invoice is issued and paid. In the case of Plaintiff, due tax will appear as zero if the first-time homebuyers certificate is valid for the buyer, and if the buyer benefited from it in a previous transaction, a message will appear that the certificate was used in a previous transaction. Moreover, Defendant attached a spreadsheet showing the buyer's identity and an unclear source request number, which led the Department to cancel Defendant's decision for not providing proof that the buyer had previously benefited from the first-time homebuyers certificate. Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: Accept the case in form.

Second: Accept Plaintiff's case on merits, and abolish Defendant's decision on imposition of RETT subject matter of the case.

This Decision was issued in the presence of both parties and shall be final and enforceable, in accordance with Article 42 of Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
Second Department to Adjudicate Value
Added Tax Violations and Disputes In Riyadh

Decision No. (VSR-2023-95077)
Delivered in Case No. (R-2022-
905077)

Keywords:

RETT Resulting from Real Estate Revaluation - Late Payment Fine - Real Estate Declared Value Does Not Reflect its True Value - the resulting occurrence shall take the same effect

Abstract:

Plaintiff claims to abolish ZATCA decision regarding imposition of RETT resulting from real estate revaluation, and imposition of late payment fine. - With regard to tax due after reassessment, ZATCA responded that: It, in accordance with the powers conferred upon it by law, reassessed real estate value subject matter of the case. ZATCA found that real estate disclosed value does not reflect its actual value, but is less than market value of the same plan and period. Regarding late payment fine: Given the increase in value of tax due, which was not paid by Plaintiff on due date, as a result of reassessment process referred to above, late payment fine was imposed. - With regard to First Clause, the Department established that: Defendant did not clarify in the replication nor in notice of reassessment results, mechanism of calculating real estate value at a higher than the disclosed value, and did not submit the necessary supporting documents whereupon the difference was calculated. Therefore, the Department overturn Defendant's decision. With regard to Second Clause: Given that the Department has established in the First Clause cancellation of Defendant's decision. Since the late payment fine resulted from that decision, the resulting occurrence shall take the same effect. Department ruled to Accept case in form, accept Plaintiff's case on merits, and cancel Defendant's decision regarding revaluation of real estate subject matter of the case and the resulting late payment fine. This decision shall be deemed final and enforceable under Article 42 of Tax Dispute and Violation Committee Procedures.

Documents:

- Articles (2) and (4) of [the Implementing Regulations of Real Estate Transactions Tax pursuant to Ministerial Decision No. \(712\) dated Safar 15, 1442 AH.](#)
- "The resulting occurrence shall take the same effect".

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 31/01/2023, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and its amendments, and constituted by Royal Order No. (17218) of 27/03/1442 AH, convened to consider the above-mentioned case. Since the Case fulfilled the established regulatory requirements, it was lodged with General Secretariat on 10/02/2022 AD.



The facts of this case are summed up so as... (National ID Number.) filed a statement of claim, which included her objection to Defendant's decision on imposition of RETT resulting from real estate reassessment, and imposition of late payment fine. Request canceling Defendant's decision. Having presented the statement of claim to Defendant, it answered as follows: First: On Merits: Having examined Plaintiff's statement of claim and contested clauses, it is evident to be limited to objection to ZATCA's reassessment regarding RETT and resulting late payment fine. ZATCA summarizes its response as follows: First: With regard to due RETT after reassessment: ZATCA, in accordance with powers conferred thereupon by law, reassessed real estate value subject matter of the case. ZATCA found that real estate's disclosed value does not reflect its actual value, but is less than market value of the same plan and period. As a result, ZATCA amended the amount of due RETT based on Article (4) of the Implementing Regulations of Real Estate Transaction Tax, which stipulates: "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", and in accordance with Article 6 of the Regulations, which stipulates: "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" Second: Regarding the late payment fine: Given the increase in value of tax due, which was not paid by Plaintiff on due date, as a result of reassessment process referred to above, late payment fine was imposed based on Article 8.C of the Implementing Regulations of Real Estate Transaction Tax, which provides that: "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." Second: Requests: ZATCA requests Honorable Committee to dismiss the case for grounds stated above and to uphold ZATCA decision. ZATCA reserves the right to provide further responses and clarifications until pleadings closing. This concludes Defendant's response.

On Thursday, 22/12/2022, the session convened remotely via video conference in accordance with remote virtual litigation procedures; pursuant to the provisions of Article 15.2 of the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) and 21/04/1441 AH. Having called parties to the case, Mr..... (Civil Registry no....) in its own capacity, appeared and (Civil Registry no....) in her capacity as Defendant's representative "ZATCA" by virtue of authorization No. (.....) dated .../.../ ... 1443 AH, issued by the Deputy Governor for Legal Affairs and Compliance, appeared. Having asked the Plaintiff about its case, she responded according to contents of statement of claim, and adheres to contents thereof. Having asked the Defendant's representative about her response, she responded in accordance with Memorandum of Reply, and adheres to contents thereof and submitted an additional replication No. 2 accompanied by some documents. Having presented the replication to Plaintiff, she requested a period of time to review and respond. Therefore, the Department decided to postpone the consideration and set the date of 01/05/2023 for the next hearing, Provided that Plaintiff shall submit her response no later than 29/12/2022, and the Defendant's representative shall submit her response before the next hearing.

On Thursday 05/01/2023, the session convened via video conference in accordance with the remote video litigation procedures, pursuant to the provisions of Article 15.2 of the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. 26040 dated 21/04/1441 AH. Having called parties to the case, it has been proven that Plaintiff or her legal representative did not appear despite the fact that she was informed of the date of this hearing via email registered in case file, and Mr..... (Civil Registry no....) in his capacity as Defendant's representative "ZATCA" appeared by virtue of authorization No. (.....) dated .../.../ ... 1443 AH, issued by the Deputy Governor for Legal Affairs and Compliance, appeared. Therefore, the Department decided to dismiss the case due to the lack of validity to adjudication.



On 05/01/2023, Plaintiff submitted a request to reopen the Case.

On Tuesday, 31/01/2023, The session convened remotely via video conference in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article 15.2 of the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. 26040 dated 21/04/1441 AH. Having called parties to the case, Mr..... (Civil Registry no....) in its own capacity, appeared and (Civil Registry no....) in her capacity as Defendant's representative "ZATCA" by virtue of authorization No. (.....) dated .../.../ 1443 AH• issued by the Deputy Governor for Legal Affairs and Compliance, appeared. In this session, after reviewing documents submitted by parties, the Department asked the parties what they would like to add, and they decided to be satisfied with what had been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, and based on Added Value Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA Board Decision No. (3839) dated 14/12/1438 AH, as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. 26040 dated 11/06/1441 H, Common VAT Agreement of GCC States, as well as other relevant laws and regulations.

In Form: Since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form.

On Merits: Having examined the case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that dispute is centered around imposition of RETT resulting from real estate reassessment and in imposition of late payment fine.

With regard to the First Clause (RETT): It is clear that the dispute is centered around Plaintiff's objection to the Defendant's decision to reassess real estate at a value higher than the sale's value, which has resulted in due RETT. Article 2 of Implementing Regulations of Real Estate Transaction provides that: "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". Having reviewed the entire case file and defenses contained therein, it becomes clear that Plaintiff objected to Defendant's decision. Plaintiff stated in statement of claim that the plan was purchased and that one price per meter was set in all plots during the purchase. She explained that there are better plots than others in terms of depth, width on the street, and direction. Therefore, plots' purchase price is not real because it is the worst thing in the plan. In addition, plan and plot are located in lowlands, their lengths are not good, and their sides are different, and they are all in one street, and eight of them are west street, and they were sold to one buyer. In its replication, Defendant stated that, in accordance with powers conferred upon it by law to reassess value of real estate, it found that real estate disclosed value did not reflect its actual value, but was less than the market value. As a result, ZATCA amended amount of tax due based on Article (4) of the Implementing Regulations of Real Estate Transactions Tax. Plaintiff responded to Defendant's replication that the plots are located in a strong low position compared to adjacent plots. In addition, length of said plots are not good, as its entrance is large compared to its width on the street (width 15m and depth 39m), and that plots have different sides and one street. In addition, the said price is the real price, and more than one plot was sold at similar prices because of the aforementioned defects.



Plaintiff explained in the attached mail that her objection was accepted by ZATCA regarding some lands located in the same plan, sold to the same buyer on the same day and same described defects, and some of them were rejected. Plaintiff attached results of real estate reassessment and her statement as follows: Deed no. (...), The adjusted selling price was SAR 76,446.60, tax SAR (3,822.33). Reasoning: Disclosed value is less than the market value of real estate - violation of Article 4 of the Regulations. Based on the foregoing, Defendant did not clarify, neither in the replication nor in notice of reassessment results, mechanism of calculating real estate value at a value higher than the disclosed value, and did not submit necessary supporting documents based on which the difference was calculated. Therefore, the Department concluded to abolish Defendant's decision.

With regard to Second Clause (late payment fine): It is clear that the dispute is centered around Plaintiff's objection to Defendant's decision to reassess real estate at a value higher than the sale's value, which has resulted in a late payment fine for due tax. Having reviewed the entire case file and defenses contained therein, Plaintiff filed its case seeking cancelation of late payment fine resulting from Defendant's reassessment regarding sale of Plaintiff's real estate. Department's opinion in the First Clause led to cancellation of Defendant's decision. Since late payment fine resulted from that decision, the resulting occurrence shall take the same effect. Therefore, the Department overturn Defendant's decision.

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, the Chamber, after deliberation, unanimously decided:

Decision:

First: Accept the case in form.

Second: Accept Plaintiff's case on merits and abolish Defendant's decision regarding reassessment of real estate subject matter of the case and the resulting late payment fine.

This decision was issued in the presence of both litigants. The decision shall be final and enforceable in accordance with Article 42 of Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.

Decision No. (VTR-2022-1653)
Delivered in Case No. (R-
75886-2021)

Keywords:

RETT - RETT Reassessment - Difference in Value of DUE TAX not Paid on Due Date - Imposition of Late Payment Fine for Months Following Real Estate Transaction - Cancellation of Decision.

Abstract:

Plaintiff's objection to ZATCA decision on reassessment of real estate tax, and fines resulting from reassessment, requests to abolish decision and fines - ZATCA argued the following: It was found that Plaintiff disposed of the property documented by Deed No. (...) at a value lower than its fair market value, which constitutes a violation of Article 4 of the Regulations. Having reviewed the declaration, it was found that it was invalid, which necessitated its amendment, resulting in a difference in value of due tax that was not paid on due date. A late payment fine was imposed for months following real estate transaction. With regard to First Clause, the Department established that Defendant reassessed land price, reasoning in its replication that it was the fair market value of real estate, since Defendant did not provide any valid supporting documents, and it did not clarify methods and means that led to determination of real estate price subject of the objection, and since Plaintiff acknowledged disclosing existence of a sale at a price of SAR 1,000, which indicates that the amount set as value of sale price was a symbolic amount to prove transfer of property in a manner similar to the case of a gift by transferring property ownership without value, which is one of exceptional cases. Since disputed fine is a result of and associated with reassessment decision, the resulting occurrence shall take the same effect. Department ruled to Cancel Defendant's decision and resulting fines - the decision is final and enforceable.

Documents:

- Articles (3/A/ 6), 4 and (8/C) of [the Implementing Regulations of Real Estate Transactions Tax pursuant to Ministerial Decision No. \(712\) dated Safar 15, 1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 10/02/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh formed pursuant to Article (67) of the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 26/02/1444 AH, held its session via video conference in accordance with the procedures for remote video litigation to consider the above-mentioned case. Since the case satisfied the



prescribed regulatory procedures, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 17/10/2021 AD.

The facts of this case are summed up in that Plaintiff ..., holding National ID No. (...), on its own behalf, filed a statement of claim that included its objection to Defendant's decision regarding RETT reassessment, fines resulting from reassessment, and demands revocation of decision and fines.

Having presented the same to Defendant, ZATCA, submitted a replication stating that it was found that Plaintiff disposed of property documented by Deed No. (...) at a value lower than its fair market value, which constitutes a violation of Article 4 of the Regulations. ZATCA considered fair market value as the basis for calculating and accruing RETT. Having reviewed the declaration, it was found that it was invalid, which necessitated its amendment, resulting in a difference in value of due tax that was not paid on due date. A late payment fine was imposed for months following real estate transaction. As provided for in Article 8 of the Implementing Regulations of Real Estate Transactions Tax. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Sunday, 02/01/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither his representative appeared despite being legally notified, and Mr.... (..... nationality), holding National ID No. (...), Appeared in his capacity as representative of Defendant "ZATCA:, by virtue of authorization No. (.....) dated 08/03/1442 AH, issued by the Deputy Governor for Legal Affairs. Having asked Defendant's representative about his response, he responded by adhering to contents of replication and for the validity to adjudicate the case. In accordance with Article (20) of Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation, in preparation for issuing decision.

Grounds:

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, side by side with relevant laws and regulations.

In form, since Plaintiff filed its case seeking objection to Defendant's decision regarding final assessment of RETT and fines, based on the Implementing Regulations of Real Estate Transaction Tax, and since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form.

On merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant has issued its decision regarding RETT final reassessment and imposition of late payment fine, the following was established:

First: RETT: Since dispute centers on Defendant's reassessment of real estate, on Deed no. (...), so that the sale value is SAR 247,981.40, and RETT of SAR 12,349. Defendant objects on the basis that his wife was the one who originally purchased the property subject matter of the case, and for ease of proceedings, its ownership was transferred to him from the beginning. On (24/08/1442 AH) his wife requested that property subject matter of the case be transferred to her



ownership and sale price was recorded at SAR (1,000) to facilitate transfer between parties. Having examined case file and contents therein, and since Defendant reassessed price of land, explaining this action in her replication that it is property's fair market value, and since she did not submit any valid supporting documents, and did not clarify methods and means that led to determining price of disputed property, she merely stated reassessment according to fair market value in her replication without submitting the facts on her legal basis, which would enable Plaintiff to provide evidence to the contrary. Since Plaintiff acknowledged that there was a sale transaction at a price of SAR 1,000, which indicates that amount set as sale value was a symbolic amount to prove transfer of ownership in a manner similar to case of a gift by transferring property ownership without value, which is one of the exceptions under Article 3.6 of the Regulations, particularly since parties to sale are: Husband (transferor of property (assignor)) and wife (transferee of property (assignee)). Based on the foregoing, the Department decides to overturn Defendant's decision in this regard.

Second: Late payment fine Clause, Since disputed fine is a result of and associated with reassessment decision, the resulting occurrence shall take the same effect. Since the Department decided, in Clause (First), to overturn Defendant's decision regarding reassessment of real estate transaction, and based on Article 8.C of the Implementing Regulations of Real Estate Transaction Tax, which states that: "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: 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". Based on the foregoing, the Department decides to overturn Defendant's decision in this regard.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- Overturn Defendant's decision together with resulting fines.

This decision was made in presence of parties, in accordance with the provisions of Article (56) of the Law of Procedure before Sharia Courts. The date on which the decision was uploaded to General Secretariat of Zakat, Tax and Customs Committees is the date of decision delivery. This decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1663)
Delivered in Case No. (R-
75886-2021)**

Keywords:

RETT - Reassessment of Real Estate Transaction - Cancellation of Defendant's Decision.

Abstract:

Plaintiff filed a case seeking cancellation of ZATCA decision on reassessment of real estate transaction and consequent fines. ZATCA responded that it had reassessed real estate transaction because the property was not subject to fair market value. The Department established with respect to reassessment of real estate transaction that: Defendant did not provide proof of validity of its decision, and the property was not subject to fair market value despite the fact that it claimed otherwise, and that it had taken such action in advance, which required the existence of official supporting document to rely on. Department ruled to Cancel Defendant's decision as well as its resulting fines- the decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 14/09/2022, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh formed pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, convened to consider the above-mentioned case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees on 27/02/2022 AD.

Facts of this case are summed up as Mr..., holding National ID No. (...), filed a statement of claim that included its objection to Defendant's decision regarding reassessment of real estate transaction, regarding Deed no. (...) together with resulting fines, and demands revocation of decision and fines.

Having presented the same to Defendant (ZATCA), it submitted a replication that entered a plea to dismiss the case in form due to decision upholding, based on Article (3) of Tax Dispute and Violation Committee Procedures, since ZATCA's decision was issued on 21/10/2021. This concludes Defendant's response.

On Wednesday, 14/09/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (...) dated 21/14/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity. Mr.(... Nationality), holding national ID no. (...) in his capacity as ZATCA representative by virtue of authorization No. (....) dated



.../10/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded in accordance with contents of statement submitted to the General Secretariat of Zakat, Tax and Customs Committees, and adhered to contents thereof. Having asked Defendant's representative about his response, he responded by adhering to contents of replication. Having asked parties to the case about what they would like to add, they decided to be satisfied with what has been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

Having perused and examined case papers, and having reviewed the Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) of 03/05/1438 AH, Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, and having reviewed Value Added Tax Law issued by Royal Decree No. (M/13) of 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board under number (3839) dated 14/12/1438 AH, as amended, and based on Royal Order No. (A/84) dated 14/02/1442 AH and based on Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH and the Implementing Regulations of Real Estate Transactions issued pursuant to Finance Minister Decision No. (712) dated 15/02/1442 AH, as amended, and based on the relevant laws and regulations, the Department considered the case:

In form, since Plaintiff filed its case seeking objection to Defendant's decision regarding final assessment of RETT and fines, based on the Implementing Regulations of Real Estate Transaction Tax, and since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form. As for Defendant's plea to dismiss the case in form due to decision upholding, and since Plaintiff entered a plea that he was not aware of decision, because of his mother's illness and he was accompanying her, and since Plaintiff submitted a document proving validity of what he stated, in addition to the fact that ZATCA notified that he did not adopt as his address. Therefore, the Department disregarded this plea.

On merits, having examined case papers and response of both parties after giving them ample time to express and submit necessary documents, the Department established that Defendant rendered its decision on reassessment of real estate transaction of deed no. (...) together with resulting fines. Since dispute centers on Plaintiff's objection to decision regarding reassessment of real estate transaction, in order to prove validity of sale and market conditions, and since Defendant did provide proof of its decision validity, and that the property was not subject to fair market value, although it claims otherwise, and that she had previously taken this procedure, which requires existence of an official document to rely on, and since Defendant did not submit the document on time. Since prolongation of litigation was contrary to requirements of justice, the Department considered that the case met conditions that would be suitable for adjudication. Based on the foregoing, the Department concluded to accept Plaintiff's claim and cancel Defendant's decision.

Decision:

First: To Accept case in form.

Second: Cancel Defendant's decision and its consequences.

This decision was issued in presence of both litigants. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.



May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1676)
Delivered in Case No. (R-
75528-2021)**

Keywords:

RETT - RETT Reassessment - Incorrect calculation of land value - Property Fair Market Value.

Abstract:

Plaintiff objected to ZATCA's decision on RETT reassessment and fines resulting therefrom, and demanded cancellation of decision and fines, because the property was transferred by gift to his brother, and also argues Defendant's incorrect calculation of land value - ZATCA argued as follows: Real estate transaction was examined, and real estate transaction was reassessed based on fair market value of property and calculation of RETT- With regard to First Clause, the Department established that Since the donor is the brother of donee, which is a Third-degree kinship, this resulted in non-validity of exception from application of RETT on Plaintiff's transaction. With regard to reassessment of real estate transaction amount by Defendant, and since Defendant assessed land price in the amount of SAR 369,255, explaining this in its replication that it is the fair market value of property, and since it did not submit any valid documents supporting validity of its decision and validity of its assessment, such as submitting sales statement of lands located at the same plot number. Since disputed fine is a result of and associated with reassessment decision, the resulting occurrence shall take the same effect. Department ruled to Amend Defendant's decision to calculate the value of real estate transaction subject matter of the case to be in the amount of SAR150,000. Amend fines as stated in First Clause. Dismiss other requests - the decision shall be final and enforceable.

Documents:

- Article (1/ 7) of [The Implementing Regulations of Procedure before Sharia Courts issued by the Minister of Justice Resolution No. \(39933\) dated 05/19/1435 AH.](#)
- Article (3/A/ 6), and (8/C) of [the Implementing Regulations of Real Estate Transactions Tax pursuant to Ministerial Decision No. \(712\) dated Safar 15, 1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 19/09/2022, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/1/1425 AH, as amended, by Royal Decree No. (17218) dated 27/03/1442 AH, convened a session to consider the above-mentioned case. Since the case has met the prescribed legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees on 13/10/2021AD.



The facts of this case are summed up in that Plaintiff ..., holding National ID No. (...), on its own behalf, filed a statement of claim that included its objection to Defendant's decision regarding RETT reassessment, fines resulting from reassessment, and demands revocation of decision and fines.

Having presented the same to Defendant (ZATCA), it submitted a replication stating that real estate transaction was examined, and that real estate transaction was reassessed based on fair market value of property and calculation of RETT. With regard to Plaintiff's statement that gift to his brother is a real estate transaction exempted from RETT application, the transaction made by Plaintiff is therefore subject to RETT that is not exempt from RETT application, as the gift was given to a Third-degree relative to which the exception in Article 3.A.6 of the Implementing Regulations of Real Estate Transaction Tax does not apply. A late payment fine was imposed on real estate transaction subject matter of the case, as Plaintiff did not pay RETT for months following month due for RETT due to a difference between value of disclosed tax and due tax. According to Article 8.C of the Implementing Regulations of Real Estate Transactions Tax. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Monday, 19/09/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity, and Mr..... appeared (..... nationality), holding National ID No. (...), In his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated/10/1443 AH, issued by the Deputy Governor for Legal Affairs. At the beginning of hearing, Plaintiff reported that he gifted his brother a land that he purchased for the amount of SAR 150,000. Defendant considered the land to be subject to real estate transactions and priced it at an excessive price. Plaintiff requests cancelation of tax due to his ignorance of the law, together with resulting fines, or amendment of tax to reflect purchase price. Having requested comment of Defendant's representative, he stated that he upholds his representative's arguments in accordance with replication attached to the case file. Having asked parties to the case about what they would like to add, they decided to be satisfied with what has been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, side by side with relevant laws and regulations.

In form, since Plaintiff filed its case seeking objection to Defendant's decision regarding final assessment of RETT and fines, based on the Implementing Regulations of Real Estate Transaction Tax, and since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form.

On merits, having examined case papers and response of parties thereto after giving them ample time to express and submit necessary documents, the Department established that Defendant has issued its decision regarding RETT final reassessment, fines and imposition of late payment fine, the following was established:



First: RETT Clause: Dispute lies in Defendant's reassessment of real estate transaction, Plaintiff argues that property was transferred by gift to his brother, and also argues that Defendant's calculation of land value was incorrect. As for gift, since it was found that ownership of Plot of Land No. (...), from Plan No. (...), Located in Al Khair District in Riyadh, was transferred by gift to, holding national ID No.(...), on .../03/1442 AH, and since Article 3.A.6 of the Implementing Regulations of Real Estate Transactions, before amendment, governing the facts at the time, stipulated that: "The following cases shall be excluded, in full or part, from the RETT application scope: "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". Article 1/7 of the Implementing Regulations of Law of Procedure Before Shari'ah Courts states that: "Relatives up to the Fourth degree are: First degree: Fathers, mothers, grandfathers, grandmothers, and their ancestors. Second degree: Children, and their children, and their descendants. Third degree: Brothers and sisters, siblings, fathers, mothers, children, children of their children ...", and since the donor is the brother of donee, which is a Third-degree kinship, this resulted in non-validity of exception from application of RETT on Plaintiff's transaction. Based on the foregoing, the Department decides to dismiss the claim in this regard.

With regard to reassessment of real estate transaction amount by Defendant, which Plaintiff objects to amount calculated by Defendant, and submitted the title deed belonging to him before evacuation under no. (...) dated (.../06/1441 AH) corresponding to (03/02/2020) in the amount of SAR (150,000), and since Defendant assessed land price in the amount of SAR 369,255, explaining in its replication that it is the fair market value of property, since it did not submit any valid documents supporting validity of its decision and validity of its assessment, such as submitting a land sales statement located in the same plan number... located in district in Riyadh, taking into account land geographical location and advantages and disadvantages thereof according to its geographical location, which affect land's sale price between independent parties. Based on the foregoing, the Department decides to amend Defendant's decision to recalculate value of disposed property according to its purchase price, as determined by value shown in deed in the amount of SAR 150,000, especially since the period between Plaintiff's purchase and disposal of land took place within a period of eight months.

Second: Late payment fine Clause, since disputed fine is a result of and associated with reassessment decision, the resulting occurrence shall take the same effect. Since the Department decided, in Clause (First), to amend Defendant's decision regarding reassessment of real estate transaction, and based on Article 8.C of the Implementing Regulations of Real Estate Transaction Tax, which states that: "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: 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". Based on the foregoing, the Department decides to amend Defendant's decision in this regard. Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

First: Amend Defendant's decision to calculate value of real estate transaction subject matter of the case to be in the amount of SAR150,000.

Second: Amend fines as stated in First Clause.

Third: Reject other requests.

This decision was made in presence of parties. The date on which decision was uploaded to General Secretariat of Zakat, Tax and Customs Committees is the date of decision delivery. Parties to the case may request to appeal the decision in accordance with the law within 30 days from the day following date specified for its receipt. The decision shall become final and enforceable after the end of this period in the event of failure to lodge an objection.



May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1677)
Delivered in Case No. (R-
78843-2021)**

Keywords:

RETT - Submitted Declaration Was Found to Be Invalid, Which Necessitated Amendment Thereof - A Difference in Value of Due Tax That Was Not Paid on the Statutory Date - Late Payment Fine - Dismiss Plaintiff's Case.

Abstract:

Plaintiff objects to ZATCA's decision regarding imposition of RETT, together with imposed fines, and requests to abolish decision - ZATCA argued the following: Title deed clarifies that conveyance process was carried out for the brother, and therefore the exception contained in Article 3.6 of the Implementing Regulations of Real Estate Transactions does not apply. As for fine, it was found that submitted declaration is invalid, which necessitates amendment thereof and resulted in a difference in value of due tax that was not paid on due date. A late payment fine was imposed for months following real estate transaction. With regard to First Clause, the Department established that conveyance was made between brothers and sisters, which is Third-degree kinship. This results in that exception contained in Article 3.A.6 of the Implementing Regulations of Real Estate Transactions does not apply. Since fine resulted from and related to Defendant's decision regarding reassessment, the resulting occurrence shall take the same effect. Since Defendant's decision to impose a RETT is proven to be valid, and since RETT is not paid on due date. Department ruled to Dismiss Plaintiff case, and consider the decision as final and enforceable.

Documents:

- Article (1/ 7) of [The Implementing Regulations of Procedure before Sharia Courts issued by the Minister of Justice Resolution No. \(39933\) dated 05/19/1435 AH.](#)
- Article (3/A/ 6), and (8/C) of [the Implementing Regulations of Real Estate Transactions Tax pursuant to Ministerial Decision No. \(712\) dated Safar 15, 1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 19/09/2022, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/1/1425 AH, as amended, by Royal Decree No. (17218) dated 27/03/1442 AH, convened a session to consider the above-mentioned case. Since the case has met the prescribed legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees on 24/10/2021AD.



The facts of this case are that Mr..., holding national ID No.(...), on its own behalf, filed an objection to Defendant's decision on imposition of RETT together with imposed fines, and demanded cancellation of decision.

Having presented the same to Defendant (ZATCA), it argued that the deed indicated that conveyance process was carried out for the brother, and therefore the exception contained in Article 3.6 of the Implementing Regulations of Real Estate Transactions does not apply. As for fine, it was found that submitted declaration is invalid, which necessitates amendment thereof and resulted in a difference in value of due tax that was not paid on due date. A late payment fine was imposed for months following real estate transaction, in accordance with Article 8 of the Implementing Regulations of Real Estate Transactions Tax. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Monday, 19/09/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, Plaintiff's attorney appeared, (..... National), under POA N. (...) holder of National ID No (...), attended in his capacity as attorney of Defendant.attended..... (.... nationality), holding National ID No. (...), In his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../ 10/ 1443AH- issued by Deputy Governor for Legal Affairs. Having asked Plaintiff attorney about his case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked Defendant's representative about his reply, he maintained his answers contained in his replication. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, side by side with relevant laws and regulations.

In form, since Plaintiff filed its case seeking objection to Defendant's decision regarding final assessment of RETT and fines, based on the Implementing Regulations of Real Estate Transaction Tax, and since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form.

On merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant has issued its decision regarding imposition of RETT and imposition of late payment fine, it found the following:

First: RETT: Dispute lies in Plaintiff's objection to RETT imposition, since conveyance of property owned by her under deed No. (...) dated .../05/1442 AH, was by gift to her brothers and sister, and Defendant argues that real estate transaction by gift to brother is not one of the applicable exceptional cases at the time, and since real estate transaction process took place on 01/08/1442 AH, and since Article 3.A.6 of the Implementing Regulations of Real Estate Transactions - before amendment and governing the facts at the time - stipulated that: "The following cases shall be excluded, in full or part, from the RETT application scope: "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". Article 1/7 of the Implementing Regulations of Law of Procedure Before Shari'ah Courts states that: "Relatives up to the Fourth degree are: First degree: Fathers, mothers, grandfathers, grandmothers, and their ascendants. Second degree: Children, grandchildren, and their descendants. Third degree: "Full brothers and sisters, paternal or maternal half-brothers and half-sisters, and their children and grandchildren." Since conveyance took place between brothers and sisters, the Third-degree kinship, which means that exception contained in Article 3.A.6 of the Implementing Regulations of Real Estate Transactions does not apply. Based on the foregoing, the Department decides to dismiss claim in this respect.

Second: Late Payment Fine, since fine resulted from and related to Defendant's decision regarding reassessment, the resulting occurrence shall take the same effect. Since Defendant's decision to impose a RETT is proven to be valid, and since RETT is not paid on due date, and in accordance with Article 8.C of the Real Estate Transactions Regulations, which stated that: "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: 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". The Department concludes to dismiss the claim to cancel the fine.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- Dismiss Plaintiff Case.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(The judgment became final and imperative because the case value is less than SAR 50,000 based on Article 42 of Tax Dispute and Violation Committee Procedures.)



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1750)
Delivered in Case No. (R-
77997-2021)**

Keywords:

RETT - RETT Reassessment - Real Estate Fair Market Value - Difference in Value of Due Tax not Paid on Due Date - Late Payment Fine for Months Following Real Estate Transaction - Failure to Submit Valid Documents Supporting Validity of Decision.

Abstract:

Plaintiff's objection to ZATCA decision on reassessment of real estate tax, and fines resulting from reassessment, requests to abolish decision and fines - ZATCA argued the following: Transaction process was examined and real estate transaction was reassessed based on property's fair market value, thus calculating RETT of Plaintiff regarding transaction subject matter of the case. Having reviewed the declaration, it was found that it was invalid, which necessitated its amendment, resulting in a difference in value of due tax that was not paid on due date. A late payment fine was imposed for months following real estate transaction. With regard to First Clause, the Department established that Defendant reassessed land price, reasoning in its replication that it was the property's fair market value, and that it did not provide any substantial documents supporting validity of its decision, as it did not explain ways and means by which it determined property's price subject matter of the case. Since disputed fine is a result of and associated with reassessment decision, the resulting occurrence shall take the same effect. Department ruled to Cancel Defendant's decision and resulting fines - the decision is final and enforceable.

Documents:

- Articles (8/C) of [the Implementing Regulations of Real Estate Transactions Tax pursuant to Ministerial Decision No. \(712\) dated Safar 15, 1442 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 10/02/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh formed pursuant to Article (67) of the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 26/02/1444 AH, held its session via video conference in accordance with the procedures for remote video litigation to consider the above-mentioned case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 17/10/2021 AD.

The facts of this case are summed up in that Plaintiff ..., holding National ID No. (...), on its own behalf, filed a statement of claim that included its objection to Defendant's decision regarding



RETT reassessment, fines resulting from reassessment, and demands revocation of decision and fines.

Having presented the same to Defendant (ZATCA), it submitted a replication stating that transaction was examined, and that real estate transaction was reassessed based on property's fair market value, thus calculating RETT of Plaintiff regarding transaction subject matter of the case. Having reviewed the declaration, it was found that it was invalid, which necessitated its amendment, resulting in a difference in value of due tax that was not paid on due date. A late payment fine was imposed for months following real estate transaction. As provided for in Article 8 of the Implementing Regulations of Real Estate Transactions Tax. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response. Moreover, Plaintiff submitted a replication stating that ZATCA did not clarify the basis of fair market value, and as for fine, the assessment was invalid, which results in invalidity of fine.

On Sunday, 02/10/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity, and Mr..... appeared (..... nationality), holding National ID No. (...), Appeared in his capacity as representative of Defendant "ZATCA"; by virtue of authorization No. (.....) On /03/1442 AH, issued by the Deputy Governor for Legal Affairs. At the beginning of hearing, Plaintiff stated that he demands cancellation of Defendant's decision for reasons he explained in his statement of claim. Having asked comment of Defendant's representative thereon, he stated that he adheres to his representative's pleas in accordance with the replication attached to case file. Having asked parties to the case about what they would like to add, they decided to be satisfied with what has been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, side by side with relevant laws and regulations.

In form, since Plaintiff filed its case seeking objection to Defendant's decision regarding final assessment of RETT and fines, based on the Implementing Regulations of Real Estate Transaction Tax, and since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form.

On merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant has issued its decision regarding RETT final reassessment, fines and imposition of late payment fine, the following was established:

First: RETT Clause: Dispute lies in Defendant's reassessment of real estate transaction in deed no. (...), so that sale value shall be in the amount of SAR 166,963.00. Since Defendant reassessed land's price in its replication as the property's fair market value, and since it did not submit any considerable documents supporting validity of its decision, as it did not clarify ways and means by which it determined price of property subject matter of the case. Based on the foregoing, the Department decides to overturn Defendant's decision in this regard.



Second: Late payment fine Clause, Since disputed fine is a result of and associated with reassessment decision, the resulting occurrence shall take the same effect. Since the Department decided, in Clause (First), to overturn Defendant's decision regarding reassessment of real estate transaction, and based on Article 8.C of the Implementing Regulations of Real Estate Transaction Tax, which states that: "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: 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". Based on the foregoing, the Department decides to overturn Defendant's decision in this regard. Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- Overturn Defendant's decision together with resulting fines.

This decision was made in presence of parties. The date on which decision was uploaded to General Secretariat of Zakat, Tax and Customs Committees is the date of decision delivery. This decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1782)
Delivered in Case No. (R-
79724-2021)**

Keywords:

RETT - Conveyance by Gift to Brother - Non-Payment of RETT on Due Date - Dismissal of Case.

Abstract:

Plaintiff objects ZATCA's decision regarding imposition of RETT on deed no. (.....), together with imposed fines, and requests to abolish decision - ZATCA argued the following: Transaction was reassessed and exception contained in Article 3.6 of the Implementing Regulations of Real Estate Transactions Tax did not apply, amounts of transaction were subject to tax, since the exception applies to relatives up to Second degree, and Plaintiff's transaction was for a Third degree relative. Defendant's representative concluded his replication by requesting dismissal of case. With regard to First Clause, the Department established that: Plaintiff objected to imposition of RETT since conveyance was by ways of gift to his brother, and the Implementing Regulations of Real Estate Transaction Tax limited the gift between relatives up to the Second degree, and since conveyance was between brothers, which is a Third degree kinship, this results in that exception contained in Article 3.A.6 of the Implementing Regulations of Real Estate Transactions does not apply. Since fine resulted from and related to Defendant's decision regarding reassessment, the resulting occurrence shall take the same effect. Since Defendant's decision to impose a RETT is proven to be valid, and since RETT is not paid on due date. Department ruled to Dismiss Plaintiff's case - the decision shall be final and enforceable.

Documents:

- Article (3/A/ 6) of [the Implementing Regulations of Real Estate Transactions Tax pursuant to Ministerial Decision No. \(712\) dated Safar 15, 1442 AH.](#)
- Article (1/ 7) of [The Implementing Regulations of Procedure before Sharia Courts issued by the Minister of Justice Resolution No. \(39933\) dated 05/19/1435 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 10/02/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh formed pursuant to Article (67) of the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 26/16/1444 AH, held its session via video conference in accordance with the procedures for remote video litigation to consider the above-mentioned case. Since the case satisfied the



prescribed regulatory procedures, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 24/10/2021 AD.

The facts of this case are that Plaintiff, holding national ID No.(...), on its own behalf, filed an objection to Defendant's decision on imposition of RETT on Deed no. (....) together with imposed fines, and demands cancellation of decision.

Having submitted the same to Defendant, ZATCA, it submitted a replication contained the following: Transaction was reassessed and exception contained in Article 3.6 of the Implementing Regulations of Real Estate Transactions Tax did not apply, amounts of transaction were subject to tax, since the exception applies to relatives up to Second degree, and Plaintiff's transaction was for a Third degree relative. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Sunday, 02/10/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity. Holding National ID No. (...), and Mr..... Holding National ID No. (.....), appeared in his capacity as Defendant representative, by virtue of Authorization No. (....) dated .../ 10/ 1443AH- issued by Deputy Governor for Legal Affairs. Having asked Plaintiff attorney about his case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked Defendant's representative about his reply, he maintained his answers contained in his replication. Having asked parties to the case about what they would like to add, they decided to be satisfied with what has been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

Having perused and examined case papers, and having reviewed the Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) of 03/05/1438 AH, Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, and having reviewed Value Added Tax Law issued by Royal Decree No. (M/13) of 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board under number (3839) dated 14/12/1438 AH, as amended, and based on Royal Order No. (A/84) dated 14/02/1442 AH and based on Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH and the Implementing Regulations of Real Estate Transactions issued pursuant to Finance Minister Decision No. (712) dated 15/02/1442 AH, as amended, and based on the relevant laws and regulations, the Department considered the case:

In form, since Plaintiff filed its case seeking objection to Defendant's decision regarding final assessment of RETT and fines, based on the Implementing Regulations of Real Estate Transaction Tax, and since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form.

On merits, having examined the case papers and response of parties thereto after giving them ample time to express and submit necessary documents, the Department established that Defendant made its decision on imposition of RETT and imposition of late payment fine. Dispute centers on that Plaintiff objects to imposition of RETT as conveyance was a gift to his brother. Given assessment notice containing Deed no. (...), Plot no.(...) Plan no (...), the adjusted sale price is in the amount of SAR (1,143,539.52), RETT in the amount of SAR (57,177), and late payment fine of SAR (28,588). Since real estate transaction was carried out on 01/11/2020 as stated by Plaintiff, and given the date of conveyance and law applicable at the time, it is evident that the Implementing Regulations of Real Estate Transaction Tax limited the gift between relatives up to Second degree, based on Article 3.A.6 of the Implementing Regulations of Real Estate Transaction



Tax. “The following cases shall be excluded, in full or part, from the RETT application scope: “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”. Article 1/7 of the Implementing Regulations of Law of Procedure Before Shari’ah Courts states that: “Relatives up to the Fourth degree are: First degree: Fathers, mothers, grandfathers, grandmothers, and their ascendants. Second degree: Children, and their children, and their descendants. Third degree: “Full brothers and sisters, paternal or maternal half-brothers and half-sisters, and their children and grandchildren.”. Since conveyance took place between brothers, the Third-degree kinship, which means that exception contained in Article 3.A.6 of the Real Estate Transactions Regulations does not apply. Based on the foregoing, the Department decides to dismiss Plaintiff’s claim in this respect.

Second: Late payment fine: Since fine resulted from and related to Defendant's decision regarding reassessment, the resulting occurrence shall take the same effect. Since Defendant's decision to impose a real estate transaction tax is proven to be valid, and since real estate transaction tax is not paid on due date, and in accordance with Article 8.C of the Real Estate Transactions Regulations, which stated that: “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: 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”. The Department concludes to dismiss Plaintiff’s claim to cancel the fine.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- To dismiss the Plaintiff case.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1784)
Delivered in Case No. (R-
87688-2021)**

Keywords:

Real Estate Transactions Tax - Value Added Tax Resulting from Real Estate Supply - Attorney Fees - The Buyer is Primarily Responsible for Bearing Burden of Paying Tax on Received Goods and Services

Abstract:

Plaintiff filed a case to obligate Defendant to pay an amount of SAR (50,000), representing value added tax resulting from real estate supply, and to pay attorney's fees in the amount of SAR (15,000). Defendant responded with respect to Plaintiff's claim for value added tax that: He supplied value of VAT and attached an invoice proving the same, and with regard to payment of attorney fees: Since pleading is a legitimate right to Plaintiff, attorneys' fees are therefore not due, especially since Plaintiff originally did not provide the bank with tax number preliminarily. The Department established with respect to Plaintiff's claim for VAT that: Defendant, according to Murabaha contract, is the final consumer of supply subject matter of the case, and therefore must pay VAT to Plaintiff, who in turn is obligated to provide the same to ZATCA. The buyer is primarily responsible for bearing burden of paying tax as an indirect tax on received goods and services. Furthermore, Defendant did not provide proof of his payment of VAT amount, or transfer obligation from him. Department ruled to Oblige Defendant to pay Plaintiff an amount of SAR (50,000) representing value of VAT subject matter of the case, and an amount of SAR (5,000) representing attorney fees - the decision is final and enforceable under Article 42 of the Tax Dispute and Violation Committee Procedures.

Documents:

- Article 2 of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Article (14) of [the Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 17/10/2022, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/1/1425 AH, as amended, by Royal Decree No. (17218) dated 27/03/1442 AH, convened a session to consider the above-mentioned case. Since the case has met the prescribed



legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees on 23/12/2021AD.

Facts of this case are that Mr....., holding national ID no. (...), as an attorney under power of attorney no. (...), on behalf of Plaintiff, holding national ID no. (...), filed a statement of claim which included Defendant's claim, CR no. (...), to pay an amount of SAR 50,000, representing value added tax resulting from real estate supply, in addition to paying attorney fees in the amount of SAR 15,000.

Defendant's attorney also submitted a response stating the following: First: Content of Plaintiff's case: The aforementioned filed a case stating that (he sold a property to the buyer..... holding national ID no. (...)) through.....and paid value added tax (SAR 50,000). After submitting a request to refund tax, he was surprised that the bank refunded it even though he did not pay the tax. He concluded his case by demanding (obliging the bank to pay amount of VAT amounting to SAR (50,000) together with legal fees amounting to SAR (15,000). Second: Bank Defense: In form: We argue that the case is filed by a person without capacity, as the Bank has no capacity in this case, since Plaintiff (seller) did not disclose that he was registered in tax system at the time of executing the transaction subject matter of the case, and since the Bank supplied tax and it was collected it on time. Therefore, the Bank supplied tax on transaction on 26/12/2019. A copy of invoice is attached. On merits: First of all, we would like to inform you that after examining subject of case, it was found that property subject matter of the case was purchased for the benefit of Mr., since the latter has a financing relationship with the bank, and Bank issued a tax invoice on/12/2019, and then paid it. (A copy of tax invoice is attached). Given the fact that Plaintiff did not provide evidence that he was registered as a taxpayer under the Value Added Tax Law and its Implementing Regulations at the time of sale, nor did he issue an invoice containing VAT value in accordance with Article 2/53, and given the fact that attempting to issue an invoice after expiration of legal period would result in a breach of commercial dealings and stability of commercial and legal centers, which would be contrary to provisions of Article 2/53. Since pleading is a legitimate right to Plaintiff, attorney's fees are not due, especially since Plaintiff did not originally provide the bank with tax number. Therefore, Plaintiff may not legally claim the bank... because the claim is filed by a person without capacity and because VAT has been paid by the bank and supplied to ZATCA in accordance with the Law. Since bank has supplied VAT value according to the attached invoice referred to above, Plaintiff's claim to Bank is an Illicit enrichment, since bank may not be claimed for VAT value that was supplied to ZATCA by the bank. Based on the foregoing, bank requests the following from your Excellency: In form: Dismiss the case for being filed by a person without capacity. On merits: We request that Plaintiff's case be dismissed. On Wednesday, 14/09/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither his representative appeared despite being legally notified, and Mr....., national, under power of attorney no. (.....), holding national ID no. (.....) appeared in his capacity as Defendant's attorney. Accordingly, the Department unanimously decided to dismiss the case, in accordance with Article (20) of Tax Dispute and Violation Committee Procedures

On 14/09/2022, Plaintiff submitted a request to reopen the Case.

On Monday, 17/10/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree (.....) dated 21/04/1441 AH. Having called parties to case, Plaintiff holding national ID No. (....) appeared in person, and Mr....., holding national ID No. (.....), under power of attorney no. (.....) appeared. Having asked Plaintiff about his case, he responded, according to contents of statement submitted to the General Secretariat of Zakat, Tax and Customs Committees and adhered to contents thereof. Having asked Defendant's representative about his response, he responded by adhering to contents of



replication. Having asked parties to the case about what they would like to add, they decided to be satisfied with what has been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

Having perused and examined case papers, and having reviewed Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH. Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, and based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations. the Department considered the case:

In Form, Since Plaintiff filed a case for the purpose of obligating Defendant to pay the VAT amount imposed as a result of a real estate supply transaction; therefore, this case falls within jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Articles (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Article (1): "Approval of the Value Added Tax Law" and in Article (2): "The competent judicial authority stipulated by this Law shall form the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1/a) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: A. Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and regulations, as well as the decisions and directives related thereto". Since it is established from case file that Plaintiff filed the case through the electronic portal on .../11/2021 and due date of claimed amount on .../12/2019, case is accordingly filed within legal period provided for in Article 67.8 of the Income Tax Law, as amended by Royal Decree No. (M/113): "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Accordingly, the case has satisfied all formal requirements, and shall be accepted in form.

On Merits, the dispute is found to be centered on Plaintiff's claim that Defendant pay an amount of SAR (50,000), representing value-added tax resulting from real estate supply, in addition to paying attorney's fees amounting to SAR (15,000).

With regard to Plaintiff's claim for value-added tax, for sale of a property by Defendant, on (.../4/1441 AH) corresponding to (.../12/2019 AD) under Deed no. (...), since Defendant (financier), according to Murabaha contract, is the final consumer of supply subject matter of the case, he must therefore pay the tax Plaintiff, who in turn is obligated to supply the same to ZATCA, and since Article 2 of the Value Added Tax Law provides that: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." and Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". Since the customer or buyer (recipient of goods and services) is primarily responsible for bearing burden of paying tax as an indirect tax on



received goods and services, and since Defendant did not submit evidence of paying VAT amount, or transferring obligation. Based on the foregoing, the Department concludes to accept Plaintiff's claim in this respect.

With respect to claim for attorney fees, the Department estimated that Plaintiff would be compensated in the amount of SAR 5,000, in accordance with the principle adopted by the Department.

Decision:

First: ObligeDefendant, CR No. (.....) to payPlaintiff, holding national ID No. (...) an amount of SAR (50,000) fifty thousand riyals, representing value of VAT subject matter of the case.

Second: ObligeDefendant, CR No. (.....) to payPlaintiff, holding national ID No. (...) an amount of SAR (50,000) fifty thousand riyals, representing attorney fees.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1797)
Delivered in Case No. (R-80021-
2021)**

Keywords:

Real Estate Transaction Tax - Real Estate Supply - Customer is the Original Bearer of Burden of Paying Tax - Imposing Fines as a Result of Failure to Collect and Pay Tax on Time.

Abstract:

Plaintiff objected to ZATCA's decision regarding Defendant's claim, holding national ID No. (...), to pay an amount of SAR (125,000), representing value added tax resulting from real estate supply in the amount of SAR (2,500,000) for Plot no. (...) of Plan no. (...) located in District in Riyadh City and to compensate him for two fines of late declaration submission and late payment, it was proven to the Department regarding First Clause, since the customer or buyer (recipient of goods and services) is primarily responsible for bearing burden of paying tax as an indirect tax on received goods and services, and since it was established to the Department from Defendant's declaration at hearing held on 21/11/2022, that he purchased property subject matter of the case from Plaintiff without paying tax value, and since the competent authority to collect the tax issued a payment invoice to Plaintiff. Since liability for compensation arises only because of existence of its elements of fault, damage and causation, and since it has been established that causation is denied as a result of Plaintiff's negligence. Department ruled to Oblige Defendant to pay Plaintiff an amount of SAR (125,000) one hundred and twenty-five thousand riyals, representing value of tax subject matter of the case. Dismiss other requests - the decision shall be final and enforceable.

Documents:

- Article 67.A.1&8 of [the income tax law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Article 2 of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles 14 of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)
- [Clauses \(First and Second\) of Royal Decree No. \(M/113\) of 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/11/2022, Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/1/1425 AH, as amended, by Royal Decree No. (17218) dated 27/03/1442 AH,



convened a session to consider the above-mentioned case. Since the case has met the prescribed legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees on 30/10/2021AD.

The facts of this case are that Mr. ..., holding National ID No. (...), in his capacity as an attorney under power of attorney no. (...), on behalf of Plaintiff ..., holding National ID No. (...), filed a statement of claim that included claim of Defendant ..., holding National ID No. (...), to pay an amount of SAR (125,000), representing VAT resulting from real estate supply in the amount of SAR (2,500,000) for Plot no. (...) of Plan no. (...) located in ... District in Riyadh in addition to compensating him for fines of late declaration submission and late payment.

Having presented the same to Defendant, he did not submit a response to case.

On Sunday, 11/09/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, Plaintiff's attorney appeared, (..... National), under POA N. (...) holder of National ID No (...), attended in his capacity as attorney of Defendant.attended..... (.... nationality), holding National ID No. (...), In his capacity as representative of Plaintiff (ZATCA) by virtue of Authorization No. (...) dated .../03/1442 AH issued by the Deputy Governor for Legal Affairs. At the beginning of hearing, the Plaintiff's attorney stated that he requested a grace period to provide proof that his client sold the property subject matter of the case to Defendant, and that amount of sale received by his client did not include tax, or to convince Defendant to appear and confront him. Therefore, the Department decided to grant the Plaintiff a grace period and to adjourn the hearing to September, 29 at 2:00 PM Provided that the request for a grace period is submitted before September 14th, and Defendant must be notified of the same and submits his response before September 21st.

On Thursday, 29/02/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/04/1441 AH. Having called parties to case, Defendant, holding National ID No. (.....) appeared, and Plaintiff neither his representative appeared despite being legally notified of hearing date. Accordingly, the Department unanimously decided to dismiss the case, in accordance with Article (20) of the Tax Dispute and Violation Committee Procedures.

On 17/10/2022, Plaintiff submitted a request to reopen the Case.

On Sunday 06/11/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., Saudi National, under National ID No. (.....) appeared as Plaintiff Attorney under POA No. (...), and Defendant did not appear. The Department asked Plaintiff whether it submitted documents for which Plaintiff had requested a continuance in the previous session. Plaintiff stated that it had submitted some documents and requested another continuance to submit additional documents. Accordingly, the Department decided to give the Plaintiff a final continuance to submit the documents, and to postpone the continuation of the hearing of the Case to the session on Monday, 21/11/2022 at 07:00 PM.

On Monday, 21/11/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., ID No. (.....), under POA No. (...), and Mr., ID No. (.....) appeared as Defendant. When Defendant was asked about its response, Defendant replied: Upon purchasing a property from Plaintiff, Defendant issued two checks at the time of ownership transfer, a check for the amount of the property, and another one for tax value of the property. However, Defendant delivered only the First check to Plaintiff, which is the amount of the property and did not deliver the check for tax value of the property, as Defendant



found that Plaintiff was not registered in the VAT System. The Department asked Defendant regarding purchase value of the property in question, Defendant replied: The purchase value of the property was (SAR 2,500,000) (two million five hundred thousand Saudi riyals). The Department asked parties to the Case what they wish to add, they replied that they are satisfied with what has already been submitted.

Grounds:

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, side by side with relevant laws and regulations.

In Form: Since Plaintiff filed a case seeking refund from Defendant of an amount representing the value tax resulting from the real estate supply process, therefore this case is considered to be within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Articles (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Article (1): "Approval of the Value Added Tax Law" and in Article (2): "The competent judicial authority stipulated by this Law shall be the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1/a) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: a) Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and regulations, as well as the decisions and directives related thereto."; and since Plaintiff, as established from case file, filed the case through the electronic portal on 30/10/2021 and the due date of the amount claimed on 31/08/2020, therefore the case is filed within the period prescribed by Law in Paragraph (8) of Article (67) of the Income Tax Law as amended by Royal Decree No. (M/113), which stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Accordingly, the case has satisfied all formal requirements, and shall be accepted in form.

On merits, the Department found that the dispute lies in Plaintiff's requesting Defendant to pay an amount of (SAR 125,000), representing the VAT resulting from the real estate supply in the amount of (SAR 2,500,000) for Plot No. (...) of Layout No. (...) located in District in Riyadh, and to compensate Plaintiff for the fines of late submission of Tax Return and late payment. As for Plaintiff's claim for the VAT, Article (2) of Value Added Tax Law stipulates:

"Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." and Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". Whereas the original burden of paying the tax as an indirect tax on received goods and services falls on the customer or the buyer (the recipient of the goods and services); Whereas the Department found



that based on the Defendant's statement at the hearing held on 21/11/2022 that Defendant purchased the property in question from Plaintiff without paying the tax value; and whereas the authority competent in collecting the VAT has issued a payment invoice to Plaintiff, therefore, the Department decides to accept Plaintiff's claim in this regard.

As for Plaintiff's claim for compensation for the fines imposed on Plaintiff by ZATCA, the Department stated that Plaintiff could have avoided imposing these fines by not completing the sale before receiving the tax amount, or paying thereof on time and referring to Defendant. Therefore, the imposition of fines was the result of Plaintiff's negligence in collecting and paying the tax on time. Whereas liability for compensation requires the achievement of its three elements, which are fault, damage, and causality between thereof; and whereas causality is absent as a result of Plaintiff's negligence, therefore, the Department decides to reject Plaintiff's claim in this regard. Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

First: To oblige Defendant, National ID No. (.....), to pay Plaintiff, National ID No. (...), an amount of (SAR 125,000) (one hundred and twenty-five thousand Saudi riyals) representing the value of the tax in question.

Second: Reject other requests.

This decision was delivered in presence of Parties. Date of uploading decision to electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. Parties hereto may request to appeal against the decision within thirty (30) days from the day following the date set for receipt of the decision. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1806)
Delivered in Case No. (R-
78358-2021)**

Keywords:

Real Estate Transaction Tax – Tax paid for Property Value – Defendant is Obligated to Pay the Full Tax to Property Owner – Dismissal of Plaintiff's Case.

Abstract:

Plaintiff filed a case seeking refund from Defendant of the VAT in an amount of (SAR 6,000) representing the tax paid for the property value represents more than (SAR 850,000) for Plaintiff's purchase of a property from the Property Owner and with financing from Defendant as stated in the attached deed. – Defendant pleaded that Plaintiff has no jurisdiction to pay the tax, as the taxpayer is the seller of the property as prescribed by the Law. The Reply also included that Plaintiff failed to provide a proof indicating that Defendant deducted an amount under the real estate transaction tax. The Reply ended with a request to dismiss the case due to Plaintiff's lack of capacity to claim the amount of real estate transaction. – The Department found that Defendant is obligated to pay the full tax to the Property Owner, which in turn obligates the customer and the contractor to pay the tax according to the rest amount after using the exemption certificate (SAR 6,000). Department ruled to the validity of deduction of an amount of (6,000) riyals, from Plaintiff's account. Department ruled to Dismiss Plaintiff's case - the decision shall be final and enforceable.

Documents:

- Paragraph (A/1) and Paragraph (8) of Article (67) of [Income Tax Law amended by Royal Decree No. \(M/113\)](#).
- Articles 14 of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH](#).
- [Articles \(1\) and \(2\) of Royal Decree No. \(M/113\) dated 02/11/1438 AH](#).

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 10/02/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh formed pursuant to Article (67) of the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 26/11/1444 AH, held its session via video conference in accordance with the procedures for remote video litigation to consider the above-mentioned case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 20/12/2021 AD.



Facts of this case are summed up in that Mr., holding National ID No. (...), in its own capacity, filed a statement of claim seeking a refund of the VAT from Defendant, Commercial Registration No. (...), in an amount of (SAR 6,000), representing the tax paid for the property value represents more than (SAR 850,000) for Plaintiff's purchase of a property from the Property Owner and with financing from Defendant as stated in the attached Deed No. (...) dated (16/09/1441 AH) corresponding to (09/05/2020 AD).

On Monday, 19/09/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr. national, under POA No. (...) appeared as representative of Defendant. Despite being informed of the date set for the session as prescribed by Law, neither Plaintiff or representative thereof appeared at the session. Therefore, Department unanimously decided to dismiss the case under Article (20) of Tax Dispute and Violation Committee Procedures.

On 25/09/2022, Plaintiff submitted a request to reopen the Case.

On Monday, 17/10/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., National ID No. (...) appeared in its own capacity as Plaintiff, and Mr., National ID No. (...) appeared as Defendant's Attorney under POA No. (...). When Plaintiff was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, maintaining the contents thereof. When Defendant's Attorney was asked about its response, the Attorney requested a continuance. Accordingly, the Department decided to postpone the continuation of the hearing of the Case to the session on Sunday, 06/11/2022 at 06:00 PM and to grant Defendant a continuance to reply to Plaintiff's claim before 24/10/2022, provided that Plaintiff reviews Defendant's Reply and submits its Reply before 31/10/2022, while Defendant reviews Plaintiff's Reply and submits final Reply before 03/11/2022.

Defendant's Attorney submitted a Reply, which stated that Defendant pleaded that Plaintiff has no jurisdiction to pay the tax, as Taxpayer is the seller of the property as prescribed by the Law. The Reply also included that Plaintiff failed to provide a proof indicating that Defendant deducted an amount under the real estate transaction tax. The Reply ended with a request to dismiss the case due to Plaintiff's lack of capacity to claim the amount of real estate transaction.

On Monday, 21/11/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., National ID No. (...) appeared in its own capacity as Plaintiff. Neither Defendant or representative thereof appeared at the session. When Plaintiff was asked whether reviewed Defendant's Reply submitted by Defendant's Attorney, Plaintiff stated affirmatively and added that: In form, Defendant has capacity to this case, as the amount of the tax was deducted from Defendant's account. On merits, Plaintiff submitted a bank statement proving such deduction and attached thereof to the case file. Accordingly, the Department decided to postpone the continuation of the hearing of the Case to the session to 11/12/2022 at 06:00 PM.

On Sunday, 11/12/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, neither Plaintiff or Defendant appeared at the session. Since the case has met all formal aspects and ready for adjudication as per Article (20) of the Tax Dispute



Violation Committee Procedures, the Department decided to adjourn the session in preparation for delivering its decision.

Grounds:

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, side by side with relevant laws and regulations.

In Form: Since Plaintiff filed a case seeking refund from Defendant of an amount representing the value tax resulting from the real estate supply process, therefore this case is considered to be within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Clauses (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Clause (1): "Approval of the Value Added Tax Law" and in Clause (2): "The competent judicial authority stipulated by this Law shall be the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1/a) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: A. Resolution of violations, disputes and cases of public and private rights, arising from the implementation of provisions of tax laws and regulations thereof, and the decisions and instructions issued accordingly."; and since Plaintiff, as established from case file, filed the case through the electronic portal on 28/09/2021 AD and the due date of the amount claimed on 25/07/1440 AH, therefore the case is filed within the period prescribed by Law in paragraph (8) of Article (67) of the Income Tax Law as amended by Royal Decree No. (M/113), which stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Accordingly, the case has satisfied all formal requirements, and shall be accepted in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, Department found that dispute lies in Plaintiff case seeking refund from Defendant of the VAT in an amount of (SAR 6,000) representing the tax paid for the property value represents more than (SAR 850,000) for Plaintiff's purchase of a property from the Property Owner and with financing from Defendant as stated in the attached Deed No. (...) dated (16/09/1441 AH) corresponding to (09/05/2020 AD). Whereas Plaintiff attached its bank statement, in which Department found a debit transaction dated (.../04/2019) indicating "Deduction of installment (1) real estate financing in the amount of (SAR 97,000)", followed by another transaction on the same date, the type of which was (VAT) in the amount of (SAR 6,000). Whereas Defendant is obligated to pay the full tax to the Property Owner, which in turn obligates the customer and the contractor to pay the tax according to the rest amount after using the exemption certificate (SAR 6,000). Therefore, the Department ruled to the validity of deduction of an amount of (SAR 6,000), from Plaintiff's account. Whereas Article (2) of Value Added Tax Law stipulates: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." and Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: "Without prejudice to Article two of the Law, for the purposes of applying the



Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom”. Therefore, the Department decides to dismiss Plaintiff’s claim. Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

First: To Accept case in form.

Second: To dismiss the Plaintiff case.

This decision was delivered in presence of Parties. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1812)
Delivered in Case No. (R-
136654-2021)**

Keywords:

Real Estate Transaction Tax – Conclusion of a Real Estate Financing Contract Under Murabaha – Dismissal of Plaintiff's Case.

Abstract:

Plaintiff filed a case seeking payment from Defendant in an amount of (SAR 15,000) representing the VAT of the property purchased by Plaintiff. – Defendant replied that the VAT in the amount of (SAR 15,000) has been paid, for which Defendant attached a receipt of payment thereof – The Department found that parties to the case have concluded a real estate financing contract under Murabaha. Therefore, the Defendant is considered the seller of the property to Plaintiff, with which the obligation of collecting the VAT amount from Plaintiff lies with Defendant. Department ruled to dismiss Plaintiff's case. – The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 31/10/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, held its session to consider above-mentioned case. Since the case fulfilled the established regulatory requirements, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 19/07/2021.

Facts of this case are summed up in that Mr., holding National ID No. (...), in its own capacity as Plaintiff, filed a statement of claim seeking payment from Defendant company, Commercial Registration No. (...), in an amount of (SAR 15,000) representing the VAT of the property purchased by Plaintiff.

Upon presenting the claim to Defendant, its Attorney submitted a Reply, which stated that the bank paid the VAT in the amount of (SAR 15,000) as per the attached a receipt of payment thereof, and Plaintiff should refer to the seller to claim such amount. The Reply was concluded with a request to dismiss the case.

On Monday, 31/10/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., holding National ID No. (...), appeared in its own capacity as Plaintiff, and Mr., National ID No. (...) appeared as Defendant's



Attorney, under POA No. (...). When Plaintiff was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, affirming its contents. When Defendant's Attorney was asked about its response, the Attorney submitted a Reply with attachments via e-mail, which was attached to the case file. When Plaintiff was asked about Defendant's Attorney response, Plaintiff stated that Defendant is merely a financier and is not entitled to collect any VAT from Plaintiff. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

Having perused and examined case papers, and having reviewed Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH. Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, and based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations. the Department considered the case:

In Form: Since Plaintiff filed a case seeking payment from Defendant of an amount of (SAR 15,000) representing the VAT of the property purchased by Plaintiff, therefore this case is considered to be within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Clauses (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Clause (1): "Approval of the Value Added Tax Law" and in Clause (2): "The competent judicial authority stipulated by this Law shall be the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1/a) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: a) Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and regulations, as well as the decisions and directives related thereto."; and since Plaintiff, as established from case file, filed the case through the electronic portal on .../07/2022 AD and the due date of the amount claimed on .../01/2019 AD, corresponding to .../05/1440 AH therefore the case is filed within the period prescribed by Law in Paragraph (8) of Article (67) of the Income Tax Law as amended by Royal Decree No. (M/113), which stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Accordingly, the case has satisfied all formal requirements, and shall be accepted in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, the Department found that dispute lies in Plaintiff case seeking refund from Defendant of an amount of (SAR 15,000) deducted from Plaintiff's account in exchange for a portion of the VAT. The Department found that parties to the case have concluded a real estate financing contract under Murabaha. Therefore, Defendant is considered the seller of the property to Plaintiff, with which the obligation of collecting the VAT amount from Plaintiff lies with Defendant, not the First seller of property (the First owner of property). Moreover, this obligation of Defendant does not prejudice or constitute a valid argument in this case, whether for the invoice issued by the First seller to Plaintiff or that Plaintiff has paid the VAT to the First seller of property (the property owner) on behalf of



Defendant as claimed by Plaintiff; or for the ownership transfer deed of Plaintiff that did not mention that the seller is the First property owner, as the deed does not prove the transfer of ownership between the three parties (“the First owner of property, Defendant “the Bank”, and Plaintiff “the final buyer of the property”), but rather proves that Plaintiff has become the owner of the property, with mortgaging thereof to Defendant to ensure payment of installments owed by Plaintiff until the end of payment thereof. Therefore, the Department ruled to dismiss Plaintiff’s case.

Decision:

- To dismiss Plaintiff’s case.

This decision was issued in presence of both litigants. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1822)
Delivered in Case No. (R-94011-
2021)**

Keywords:

Real Estate Transaction Tax – Final Reassessment of Real Estate Transaction Tax – Late Payment Fine – Abolishment of Defendant's Decision.

Abstract:

Plaintiff requested that ZATCA decision regarding the final reassessment of real estate transaction tax and imposition of late payment fine be abolished. – Plaintiff based its claim regarding the reassessment of real estate transaction tax that: The sale value is the correct market value, and that two adjacent plots with the same area and description were sold for the same value. Plaintiff sent to ZATCA the approved reports, which stated that the value was unfair for the two plots and it differentiates in the assessment of each plot. In addition, after sending the said reports for the two plots, ZATCA agreed to drop the tax for the Second plot and to accept the objection and did not agree to drop the tax for the First plot, which indicates the lack of fair and accurate assessment by ZATCA. – ZATCA replied that: As for the reassessment of real estate transaction tax, Plaintiff carried out the real estate transaction at a value less than its fair market value. As for late payment fine, Paragraph (C) of Article (8) Real Estate Transaction Tax Implementing Regulations stipulates: “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.”. The Department found that: As for the reassessment of real estate transaction tax, Defendant failed to provide documents that support the validity of its decision. As for the imposition of late payment fine: The fine in dispute was imposed as a result of and is linked to the reassessment decision, therefore, it shall have the same force and effect. The Department ruled to abolish Defendant decision and associated fines. – The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 31/10/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, held its session to consider above-mentioned case. Since the case fulfilled the established regulatory requirements, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 01/02/2021.

Facts of this case are summed up in that Mr., holding National ID No. (...), in its own capacity, filed a statement of claim included an objection to Defendant's decision regarding the



reassessment of Real Estate Transaction Tax No. (...), for property under Deed No. (...), and requested abolishment of Defendant's decision and associated fines.

Having presented the same to Defendant, ZATCA, submitted a replication stating that it was found that Plaintiff disposed of property documented by Deed No. (...) at a value lower than its fair market value, which constitutes a violation of Article (4) of Regulations. ZATCA considered fair market value as the basis for calculating and accruing RETT. Having reviewed the Declaration, it was found that it was invalid, which necessitated its amendment, resulting in a difference in value of due tax that was not paid on due date. A late payment fine was imposed for months following real estate transaction. As provided for in Article (8) of Implementing Regulations of Real Estate Transactions Tax. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

Plaintiff also submitted a Reply stated that the sale value is the correct market value, and that two adjacent plots with the same area and description were sold for the same value of (SAR 140,000). Plaintiff sent to ZATCA the approved reports, which stated that the value was unfair for the two plots and it differentiates in the assessment of each plot, which indicates the lack of fair and accurate assessment by ZATCA. In addition, after sending the said reports for the two plots, ZATCA agreed to drop the tax for the Second plot and to accept the objection and did not agree to drop the tax for the First plot. Plaintiff requested to drop the reassessed tax and associated fines. On Monday, 31/10/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., National ID No. (...), appeared in its own capacity as Plaintiff, and Mr., holding National ID No. (...) appeared as ZATCA representative, under authorization letter No. (...) dated .../10/1442 AH issued by Deputy Governor for Legal Affairs. When Plaintiff was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, affirming its contents. When ZATCA representative was asked about its response, ZATCA representative maintained its original answers included in its Reply contained in the case file. Having asked parties to the case about what they would like to add, they decided to be satisfied with what has been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

Having perused and examined case papers, and having reviewed Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH. Having perused the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, and based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations. the Department considered the case:

In form, since Plaintiff filed its case seeking objection to Defendant's decision regarding final assessment of RETT and fines, based on the Implementing Regulations of Real Estate Transaction Tax, and since the case was filed by a party with legal capacity and within prescribed statutory period, the case must therefore be accepted in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, the Department found that ZATCA has issued its decision on the final reassessment of real estate transaction tax and



associated fines, as well as the imposition of a late payment fine. The Department found the following:

First: Real Estate Transaction Tax: The dispute lies in Defendant's reassessment of real estate transaction tax of Deed No. (...), for the sale value after amendment to be in the amount of (SAR 182,357.14) instead of the announced price amounting to (SAR 140,000), and for the real estate transaction tax to be in the amount of (SAR 9,117.86) instead of (SAR 7,000); and since Defendant re-evaluated the plot price, justifying thereof in its submitted Reply that it is the fair market value of the property; and since Defendant failed to provide documents that support the validity of its decision, therefore, the Department decides to abolish Defendant decision in this regard.

Second: Late Payment Fine: Since the fine in dispute is a result of and is linked to the reassessment decision, therefore, it shall have the same force and effect; and since the Department decide in (First) to abolish Defendant decision regarding the reassessment of real estate transaction tax, and pursuant to Paragraph (C) of Article (8) Real Estate Transaction Tax Implementing Regulations stipulates: "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: 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". Based on the foregoing, the Department decides to overturn Defendant's decision in this regard.

Decision:

- Overturn Defendant's decision together with resulting fines.

This decision was issued in presence of both litigants. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1825)
Delivered in Case No. (R-
113616-2021)**

Keywords:

Real Estate Transaction Tax – Real Estate Supply – The Burden of Payment of VAT on Goods and Services Received Falls on Buyer

Abstract:

Plaintiff filed a case seeking payment from Defendant in an amount of (SAR 39,000) representing the VAT resulting from the real estate supply. – Plaintiff based its claim that the tax is imposed on the import and supply of goods and services, and that the burden of the payment of tax on goods and services received falls on the buyer; and since the competent authority in collecting the VAT has issued a payment invoice to Plaintiff, therefore, Defendant is obligated to pay the VAT on the property due to purchase thereof. – The Department found that Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof. The Department ruled to oblige Defendant to pay Plaintiff the VAT in the amount of (SAR 39,000). – The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Documents:

- Article 2 of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Article (14) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 31/10/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, held its session to consider above-mentioned case. Since the case fulfilled the established regulatory requirements, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 06/04/2021.

Facts of this case are summed up in that Mr., holding National ID No. (...), in its own capacity as Plaintiff, filed a statement of claim seeking payment from Defendant company, Commercial Registration No. (...), in an amount of (SAR 39,000) representing the VAT resulting from the real estate supply.



Upon presenting the statement of claim to Defendant, it submitted a Reply stated that Defendant argues of lack of capacity of Plaintiff for non-suspension of the certificate, as the certificate suspension was carried out under a financing contract between the bank and the customer/ ..., with no capacity of Plaintiff whatsoever in such contract. Moreover, the contractual relationship that took place between the bank and Plaintiff is an independent relationship that confirms the irrelevance of Plaintiff's capacity to claim for non-suspension of the certificate. Defendant's Attorney requested to dismiss Plaintiff's case in form for lack of capacity.

On Monday, 31/10/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., holding National ID No. (...), appeared in its own capacity as Plaintiff, and Mr., National ID No. (...) appeared as Defendant's Attorney, under POA No. (...). When Plaintiff was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, affirming its contents. When Defendant's Attorney was asked about its response, Defendant's Attorney maintained its original answers included in its Reply contained in the case file. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds:

Having perused and examined case papers, and having reviewed Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH. Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, and based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations. the Department considered the case:

In Form, Since Plaintiff filed a case for the purpose of obligating Defendant to pay the VAT amount imposed as a result of a real estate supply transaction; therefore, this case falls within jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Articles (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Article (1): "Approval of the Value Added Tax Law" and in Article (2): "The competent judicial authority stipulated by this Law shall form the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1/a) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: a) Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and regulations, as well as the decisions and directives related thereto."; and since Plaintiff, as established from case file, filed the case through the electronic portal on .../04/2022 AD and the due date of the amount claimed on .../05/2020 AD, corresponding to .../09/1441 AH therefore the case is filed within the period prescribed by Law in Paragraph (8) of Article (67) of the Income Tax Law as amended by Royal Decree No. (M/113), which stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Accordingly, the case has satisfied all formal requirements, and shall be accepted in form.



On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, the Department found that dispute lies in Plaintiff seeking payment from Defendant in an amount of (SAR 39,000) representing the VAT resulting from the real estate supply. Upon reviewing the Deed No. (...) dated .../09/1441 AH, which includes the transfer of ownership of Plot No. (...) of Layout No. (...) located in city of, for company, Commercial Registration No. (...) in the amount of (SAR 780,000); and the VAT registration certificate of Plaintiff, it was found that the effective date of Plaintiff's registration is (.../11/2019 AD). Whereas Article (2) of Value Added Tax Law stipulates that: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." and Article (14) of the Implementing Regulations of Value Added Tax Law provides that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom"; Whereas the original burden of paying the tax as an indirect tax on received goods and services falls on the customer or the buyer (the recipient of the goods and services); Whereas the competent authority in collecting the VAT has issued a payment invoice to Plaintiff; Whereas Defendant is obligated to pay the VAT on the property due to purchase thereof; and Whereas Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof, therefore, the Department decides to accept Plaintiff's claim in this regard.

Decision:

- To oblige Defendant company, Commercial Registration No. (...), to pay Plaintiff, holding National ID No. (...) the VAT in the amount of (SAR 39,000).

This decision was issued in presence of both litigants. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1832)
Delivered in Case No. (R-
90087-2021)**

Keywords:

Real Estate Transaction Tax – VAT Resulting From Real Estate Supplies – Attorney Fees – The Burden of Payment of VAT as an Indirect Tax Falls on Buyer.

Abstract:

Plaintiff filed a case seeking payment from Defendant in an amount of (SAR 34,650) representing the VAT resulting from the real estate supply and an amount of (SAR 6,000) as attorney fees. – Plaintiff based its claim that the certificate of entitlement of the state to assume the VAT submitted by Defendant for the First residence was rejected for grounds that the sold property is a plot and not the First residence, as the original burden of paying the tax as an indirect tax on received goods and services falls on the customer or the buyer. – The Department found that Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof. The Department ruled to oblige Defendant to pay Plaintiff the VAT in the amount of (SAR 34,650), and attorney fees in the amount of (SAR 6,000). – The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Documents:

- Article (2) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Article (14) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 07/11/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, held its session to consider above-mentioned case. Since the case fulfilled the established regulatory requirements, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 04/01/2021.

Facts of this case are summed up in that Mr., holding National ID No. (...), in its capacity as Attorney of Plaintiff, holding National ID No. (...), under POA No (...), filed a statement of claim seeking payment from Defendant, holding National ID No. (...), in an amount of (SAR 34,650) representing the VAT resulting from the real estate supply.



On Monday, 07/11/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mrs., holding National ID No. (.....), appeared in its capacity as Attorney of Plaintiff under POA No (...). Defendant did not appear at the session. When Plaintiff's Attorney was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, affirming its contents. Plaintiff's Attorney also requested to oblige Defendant to pay an amount of (SAR 34,650) representing the VAT in question, along with an amount of (SAR 6,000) as attorney fees. Since the case has met all formal aspects and ready for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session in preparation for delivering its decision.

Grounds:

Having perused and examined case papers, and having reviewed Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH. Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, and based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations. the Department considered the case:

In Form: Since Plaintiff filed a case seeking payment from Defendant of an amount representing the VAT resulting from the real estate supply process, therefore this case is considered to be within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Articles (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Article (1): "Approval of the Value Added Tax Law" and in Article (2): "The competent judicial authority stipulated by this Law shall be the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1/a) of Article (67) of Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: a) Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and regulations, as well as the decisions and directives related thereto."; and since Plaintiff, as established from case file, filed the case through the electronic portal on 06/04/2022 AD and the due date of the amount claimed on 17/10/1440 AH, corresponding to 20/6/2019 AD, therefore the case is filed within the period prescribed by Law in Paragraph (8) of Article (67) of Income Tax Law as amended by Royal Decree No. (M/113), which stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". The case thus fulfilled its formal requirements and the Department decided to accept the case in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, the Department found that dispute lies in Plaintiff seeking payment from Defendant in an amount of (SAR 34,650) representing the VAT resulting from the real estate supply in the amount of (SAR 693,000) under Deed No. (730107031470) dated 17/10/1440 AH, as Plaintiff argued that the certificate of entitlement of the state to assume the VAT for the First residence was rejected for grounds that the sold property is a plot and not the First residence. Upon reviewing the Deed No.



(730107031470), which includes the transfer of ownership of No. (488) of Layout No. (Sh.D/985) located in Al Sadafa District in the city of Dammam in an amount of (SAR 693,000); and the VAT registration certificate of Plaintiff, it was found that the effective date of Plaintiff's registration is (21/04/2019 AD). Whereas Article (2) of Value Added Tax Law stipulates: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law, and the Regulations." and Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom"; Whereas the original burden of paying the tax as an indirect tax on received goods and services falls on the customer or the buyer (the recipient of the goods and services); Whereas the competent authority in collecting the VAT has issued a payment invoice to Plaintiff; Whereas Defendant is obligated to pay the VAT on the Plot due to purchase thereof; and Whereas Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof. Based on the foregoing, the Department decides to accept Plaintiff's claim in this regard. As for Plaintiff's seeking payment from Defendant in an amount of (SAR 6,000) as attorney fees, the Department decided to compensate Plaintiff, under principle it settled, in an amount of (SAR 3,465) as attorney fees.

Decision:

First: To oblige Defendant holding National No. (...), to pay Plaintiff, holding National ID No. (...) the VAT in the amount of (SAR 34,650) (Thirty-four thousand, six hundred and fifty Saudi riyals).

Second: To oblige Defendant to pay Plaintiff an amount of (SAR 3,465) (Three thousand four hundred and sixty-five Saudi riyals) as attorney fees.

Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1834)
Delivered in Case No. (R-91803-
2021)**

Keywords:

Real Estate Transaction Tax – Late Payment Fine – Leverage From First Residence Certificate – Abolishment of Defendant’s Decision.

Abstract:

Plaintiff requested that ZATCA decision regarding the Real Estate Transaction Tax and the consequent imposition of the late payment fine be abolished. – Plaintiff based its claim regarding the real estate transaction tax that: The buyer is exempt from paying the tax and has a certificate of entitlement of the state to assume the tax of the First residence – ZATCA replied that: As for the real estate transaction tax: The First residence certificate has already been used in a previous real estate transaction. As for late payment fine, Paragraph (C) of Article (8) Real Estate Transaction Tax Implementing Regulations stipulates: “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”. – The Department found that: As for the real estate transaction tax, Defendant failed to provide evidence of having previously leveraged the certificate by Plaintiff. As for the imposition of late payment fine: The fine in dispute was imposed as a result of and is linked to the reassessment decision, therefore, it shall have the same force and effect. The Department ruled to abolish Defendant decision and associated fines. – The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 07/11/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, held its session to consider above-mentioned case. Since the case fulfilled the established regulatory requirements, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 20/01/2021.

Facts of this case are summed up in that Mr., National ID No. (...), in its capacity as Plaintiff, filed a statement of claim included an objection to Defendant’s decision regarding the reassessment of real estate transaction tax and associated fines, and requested abolishment of Defendant’s decision and associated fines.

Upon presenting the statement of claim to Defendant “ZATCA”, it submitted a Reply stated: Having considered Plaintiff case, it was found that Plaintiff objects to ZATCA decision regarding the reassessment of the real estate transaction tax, and the resulting late payment fine. Accordingly,



ZATCA sums up its response with the following: First: Regarding the due tax: ZATCA found that Royal Order No. (A/84) dated 14/02/1442 AH did not apply to Plaintiff's case, as Plaintiff had previously leveraged the First residence certificate. As a result, ZATCA subjected the amount of the tax due based on Article (4) of Real Estate Transaction Tax Implementing Regulations, which stipulates: "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....." Second: Regarding the late payment fine: In addition to the above, and due to Plaintiff's failure to pay the tax, the late payment fine has been imposed based on Paragraph (C) of Article (8) of Real Estate Transaction Tax Implementing Regulations, which stipulates: "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." Therefore, Defendant's representative request to dismiss Plaintiff's case. This concludes Defendant's response.

On Monday, 07/11/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (...) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., National ID No. (...), appeared in its own capacity as Plaintiff, and Mr., holding National ID No. (...) appeared as ZATCA representative, under authorization letter No. (...) dated .../10/1443 AH issued by Deputy Governor for Legal Affairs. When Plaintiff was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, affirming its contents. When ZATCA representative was asked about its response, ZATCA representative maintained its original answers included in its Reply contained in the case file. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds:

Having perused and examined case papers, and having reviewed Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH. Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, and based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations. the Department considered the case:

In Form: Since Plaintiff filed its case to request that Defendant decision be abolished on the final assessment of the real estate transaction tax and associated fines based on Real Estate Transaction Tax Implementing Regulations; and since the case was filed with capacity and within the regulatory period, therefore, the Department decided to accept case in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, the Department found that ZATCA has issued its decision on the final reassessment of real estate transaction tax and associated fines, as well as the imposition of a late payment fine. The Department found the following:

First: As for real estate transaction, the dispute lies in Defendant's final reassessment of real estate transaction tax and associated fines on Deed No. (562907000420) in the amount of (SAR 32,500), where Plaintiff argued that the buyer is exempt from paying the tax and has a certificate of entitlement of the state to assume the tax of the First residence; and since ZATCA reassessed and



imposed the real estate transaction tax, justifying thereof that Royal Order No. (A/84) dated 14/02/1442 AH did not apply to Plaintiff's case, as Plaintiff had previously leveraged the First residence certificate; and since ZATCA failed to provide evidence of having previously leveraged the certificate by Plaintiff, therefore, the Department decided to abolish Defendant decision in this regard.

Second: Since the fine in dispute is a result of and is linked to the reassessment decision, therefore, it shall have the same force and effect; and since the Department decide in (First) to abolish Defendant decision regarding the reassessment of real estate transaction tax, and pursuant to Paragraph (C) of Article (8) Real Estate Transaction Tax Implementing Regulations, which stipulates: "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: 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."

Decision:

- To abolish Defendant decision and any fines resulting thereof.

This decision was delivered in presence of Parties. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1835)
Delivered in Case No. (R-
93995-2021)**

Keywords:

Real Estate Transaction Tax – VAT Resulting From Real Estate Supplies – Attorney Fees – The Burden of Payment of VAT as an Indirect Tax Falls on Buyer.

Abstract:

Plaintiff filed a case seeking payment from Defendant of the VAT in an amount of (SAR 94,000) representing the total VAT resulting from real estate supplies, and an amount of (SAR 25,000) as attorney fees. – Plaintiff based its claim that: As for payment of VAT resulting from real estate supplies: Defendant acknowledged in its response that Defendant had purchased the residential properties in question from Plaintiff for the purpose of financing thereof for customers, and it did not pay the VAT at First. – Defendant replied that Plaintiff did not submit the tax invoice for the sale of property, nor did submit the VAT registration certificate. – The Department found that Defendant is obligated to pay the VAT for properties that it purchased, and that Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof. – The Department ruled to oblige Defendant to pay Plaintiff an amount of (SAR 40,000) representing the real estate supply tax for Deed No. (493813000528), an amount of (SAR 29,000) representing the real estate supply tax for Deed No. (493813000527), an amount of (SAR 25,000) representing the real estate supply tax for Deed No. (493813000590), and an amount of (SAR 9,400) representing the attorney fees. – The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Documents:

- Article (2) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Article (14) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday 09/11/2022 AD, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, held its session to consider the above-mentioned case. Since the case satisfied the prescribed regulatory procedures, it was filed with General Secretariat of the Zakat, Tax and Customs Committees under the above number and on 01/02/2022 AD.



Facts of this case are summed up in that Mr., holding National ID No. (...), in its capacity as Attorney of Plaintiff, holding National ID No. (...), under POA No (...), filed a statement of claim seeking payment from Defendant company, Commercial Registration No. (...), in an amount of (SAR 94,000) representing the total VAT resulting from real estate supplies, and an amount of (SAR 25,000) as attorney fees.

Upon presenting the statement of claim to Defendant, it submitted a Reply stating the following: Plaintiff filed its case seeking payment from the bank for the VAT amount calculated on the value of the property at a rate of 5%, amounting to (SAR 94,000). **Relevant Facts:** • The bank purchased a residential property from Plaintiff for the purpose of financing thereof for customers [Mr....., Mr....., and Mr.....]. The table below shows main details of the financing contract to this property: • [Financing Contract No. (...) – Property Purchase Value from Plaintiff is (SAR 580,000) – Date of Ownership Transfer is April 10, 2020]. • [Financing Contract No. (...) – Property Purchase Value from Plaintiff is (SAR 800,000) – Date of Ownership Transfer is April 10, 2020]. • [Financing Contract No. (25571869) – Property Purchase Value from Plaintiff is (SAR 500,000) – Date of Ownership Transfer is May 03, 2020]. **Defenses:** Having reviewed documents submitted by Plaintiff, it shows that Plaintiff did not submit the tax invoice for the sale of property, nor did submit the VAT registration certificate. Therefore, Plaintiff's claim to oblige the bank to pay the VAT amount is irrelevant and without a valid ground. Requests: Based on the foregoing, we request the Honorable Committee to dismiss Plaintiff's case for lack of valid legal ground.

Plaintiff also submitted a Reply stating the following: Having reviewed Defendant Reply in the case, we respond as follows: **1.** Defendant acknowledged in its response that Defendant had purchased the residential properties in question from Plaintiff for the purpose of financing thereof for customers [Mr....., Mr....., and Mr.....]. Defendant also mentioned the details of the contract, the sale amount, and the date of ownership transfer. Such acknowledgment confirms and endorses Plaintiff's statement of claim; and since acknowledgment is absolute evidence; and since acknowledgment is deemed a proof against its owner and binding thereon, we ask the Honorable Committee to oblige Defendant to requests contained in the statement of claim. **2.** Defendant's request to dismiss the case contradicts its acknowledgment of the purchase of the property in question and its recovery of the VAT amount unjustly, and is not consistent with Plaintiff's case, as Defendant failed to reply to Plaintiff's statement of claim that Defendant unjustly recovered the VAT of the property in question for its favor. Moreover, "Silence in circumstances requiring a statement shall be deemed an acceptance". **3.** We inform the Honorable Committee that the Defendant did not pay the VAT amount in the First place, but only paid the purchase price of properties in question. We ask Defendant to provide proof of payment of the VAT amount to Plaintiff upon purchasing properties in question. **4.** Whereas Plaintiff (the seller) is obligated to pay the VAT amount under the Tax Return issued under No. (...) to ZATCA, and based on Royal Order No. (A/86) dated 18/04/1439 AH, which stipulates that the state shall assume the VAT amount for the First residence; Whereas these citizens have obtained the certificate of entitlement that the state assumes the VAT amount; and whereas Defendant has submitted a request to recover the VAT amount in question and recovered thereof unjustly. For all of the foregoing, we ask the Honorable Committee to: **1.** Oblige Defendant to pay Plaintiff an amount of (SAR 94,000) (Ninety-four thousand Saudi riyals) representing the VAT amount unjustly recovered by Defendant. **2.** Oblige Defendant to pay Plaintiff an amount of (SAR 25,000) (Twenty-five thousand Saudi riyals) representing the attorney fees.

On Wednesday 09/11/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., holding National ID No. (...), appeared in its capacity as Attorney of Plaintiff, under POA No. (...), and Mr., holding National ID No. (...), appeared in its capacity as Attorney of Defendant, under POA No. (...). Whereas the Department found that Defendant's Attorney is in the his vehicle, which represents a threat to his



safety and the safety of others; Whereas the Department has requested Defendant's Attorney to step out from the vehicle and stay in a suitable place of litigation, Defendant's Attorney adhered to the convenience of place and circumstance in which he is located; Whereas the Department has informed Defendant's Attorney that it will not be able to hear him and register his appearance at the session, Defendant's Attorney adhered to the suitability of the place; Whereas this act of Defendant's Attorney represents a violation to procedures for remote video litigation and formalities of the session held via video conference; Whereas the Department has warned Defendant's Attorney of such violation but he did not comply, Therefore, the Department decided to proceed with the session without the presence of Defendant's Attorney. When Plaintiff's Attorney was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, maintaining the contents thereof. When Plaintiff's Attorney was asked if he had any other statements, he decided to suffice with his earlier submissions. Accordingly, the Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds:

Having perused and examined case papers, and having reviewed Common VAT Agreement of GCC States, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH. Having perused the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Implementing Regulations thereof issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and Implementing Regulations thereof, issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, and based on Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations. the Department considered the case:

In Form: Since Plaintiff filed a case seeking payment from Defendant of an amount representing the VAT resulting from the real estate supply process, therefore this case is considered to be within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Articles (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Article (1): "Approval of the Value Added Tax Law" and in Article (2): "The competent judicial authority stipulated by this Law shall be the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH". In accordance with Paragraph (1/a) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113), which provides that: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following: a) Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and regulations, as well as the decisions and directives related thereto."; and since Plaintiff, as established from case file, filed the case through the electronic portal on 06/04/2022 AD and the due date of the amount claimed for Deed No. (...) on 16/08/1441 AH, corresponding to 09/04/2020 AD, Deed No. (...) on 10/09/1441 AH, corresponding to 03/05/2020 AD, and Deed No. (...) on 16/08/1441 AH, corresponding to 09/04/2020 AD, therefore the case is filed within the period prescribed by Law in Paragraph (8) of Article (67) of the Income Tax Law as amended by Royal Decree No. (M/113) which stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". The case thus fulfilled its formal requirements and the Department decided to accept the case in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, the Department found that dispute lies in Plaintiff seeking payment from Defendant in an amount of (SAR



94,000) representing the VAT resulting from the real estate supplies with a total amount of (SAR 1,880,000). Upon reviewing the Deed No. (493813000528) dated 16/08/1441 AH, corresponding to 09/04/2020 AD, which includes the transfer of ownership of Apartment No. (2/4) built on Plot No. (B/320) of Layout No. (P/3/477) located in Nozha District in city of Jeddah, for company, Commercial Registration No. (...) in the amount of (SAR 800,000); Deed No. (...) dated 10/09/1441 AH, corresponding to 03/05/2020 AD, which includes the transfer of ownership of Apartment No. (2/1) built on Plot No. (B/320) of Layout No. (P/3/477) located in Nozha District in city of Jeddah, for company, Commercial Registration No. (...) in the amount of (SAR 500,000); and Deed No. (...) dated 16/08/1441 AH, corresponding to 09/04/2020 AD, which includes the transfer of ownership of Apartment No. (3/2) built on Plot No. (B/320) of Layout No. (P/3/477) located in District in city of Jeddah, for company, Commercial Registration No. (1010000096) in the amount of (SAR 580,000); Whereas Article (2) of Value Added Tax Law stipulates: “Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations.” and Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom”; Whereas the original burden of paying the tax as an indirect tax on received goods and services falls on the customer or the buyer (the recipient of the goods and services); Whereas the competent authority in collecting the VAT has issued a payment invoice to Plaintiff; Whereas Defendant is obligated to pay the VAT on the property due to purchase thereof; and Whereas Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof, therefore, the Department decides to accept Plaintiff’s claim in this regard.

As for Plaintiff’s seeking payment from Defendant in an amount of (SAR 25,000) as attorney fees, the Department decided to compensate Plaintiff, under principle it settled, in an amount of (SAR 9,400) as attorney fees.

Decision:

First: To oblige Defendant company, Commercial Registration No. (...), to pay Plaintiff, holding National ID No. (...) an amount of (SAR 40,000) (Forty thousand Saudi riyals) representing the VAT for real estate supply for Deed No. (...).

Second: To oblige Defendant company, Commercial Registration No. (...), to pay Plaintiff, holding National ID No. (...) an amount of (SAR 29,000) (Twenty-nine thousand Saudi riyals) representing the VAT for real estate supply for Deed No. (...).

Third: To oblige Defendant company, Commercial Registration No. (...), to pay Plaintiff, holding National ID No. (...) an amount of (SAR 25,000) (Twenty-five thousand Saudi riyals) representing the VAT for real estate supply for Deed No. (...).

Fourth: To oblige Defendant company, Commercial Registration No. (...), to pay Plaintiff, holding National ID No. (...) an amount of (SAR 9,400) (Nine thousand and four hundred Saudi riyals) representing the attorney fees.

This decision was delivered in presence of Parties under Article (21) of Tax Dispute and Violation Committee Procedures. Date of uploading decision to electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. Parties hereto may request to appeal against the decision within thirty (30) days from the day following the date set for receipt of the decision. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.



May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



**Adjudication Committee
Third Department to Adjudicate Value Added
Tax Violations and Disputes in Riyadh.**

**Decision No. (VTR-2022-1952)
Delivered in Case No. (R-93901-
2022)**

Keywords:

Real Estate Transaction Tax – Real Estate
Supply – Non-Registration in Tax at Time of Completion of Sale – Non-Entitlement To Amount
Claimed.

Abstract:

Plaintiff filed a case seeking payment from Defendant in an amount of (SAR 44,000) representing the VAT resulting from real estate supply. – Defendant argued that Plaintiff is not entitled to the claimed amount. – The Department found that the original burden of paying the tax as an indirect tax on received goods and services falls on the customer or the buyer, as Defendant is obligated to pay the VAT on the property due to purchase thereof. In addition, Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof. – The Department ruled to oblige Defendant to pay Plaintiff an amount of (SAR 44,000) representing the VAT in question. The decision shall be deemed final and enforceable.

Documents:

- Article 2 of [Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (14) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 04/12/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, held its session to consider the above-mentioned case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of the Zakat, Tax and Customs Committees under the above number on 31/01/2021 AD.

Facts of this case are summed up in that Mr., holding National ID No. (...), in its capacity as Attorney of Plaintiff, holding National ID No. (...), under POA No (...), filed a statement of claim seeking payment from Defendant/Bank, holding National ID No. (...), in an amount of (SAR 44.000) representing the VAT resulting from the real estate supply.



On Thursday, 10/11/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., National ID No. (...), appeared in its capacity as Attorney of Defendant, under POA No (...). Despite being served of date set for the session as prescribed by Law, neither Plaintiff or representative thereof appeared at the session. Upon reviewing the case file by the Department, it unanimously decided to dismiss the case under Article (20) of Tax Dispute and Violation Committee Procedures.

On 11/10/2022, Plaintiff submitted a request to reopen the Case.

On Sunday, 04/12/2022, the Department held its session via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., holding National ID No. (...), appeared in its capacity as Attorney of Plaintiff, holding National ID No. (...), under POA No (...), and Mr., holding National ID No. (...), appeared in its capacity as Attorney of Defendant, under POA No (...). When Plaintiff's Attorney was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, affirming its contents. When Defendant's Attorney was asked about its response, Defendant's Attorney replied that the bank argues of Plaintiff's lack of entitlement to the amount claimed in accordance with the provisions of Common VAT Agreement of GCC States, promulgated by Royal Decree No. (M/51) dated 03/05/1438 AH, and Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as the amount claimed is included in the price, therefore, the price includes all amounts, taxes, and fees; and since Plaintiff is not registered in the VAT system at the time of completion of sale, hence Plaintiff is not entitled to the amount claimed. Therefore, Defendant requests the Department to dismiss Plaintiff's case. When the parties to the case were asked if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds:

After due examination, and having taken cognizance of the case papers, the Common VAT Agreement of GCC States, promulgated by Royal Decree No. (M/51) dated 03/05/1438 AH; the Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended; and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Board Decision No. (3839) dated 14/12/1438 AH of General Authority for Zakat and Tax, and Tax Dispute and Violation, as amended; and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, as well as other relevant laws and regulations. Therefore, the Department decided to examine the case.

In Form: Since Plaintiff filed a case seeking payment from Defendant of an amount representing the VAT amount resulting from the real estate supply process, therefore this case is considered to be within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes, pursuant to Clauses (1) and (2) of Royal Decree No. (M/113) dated 02/11/1438 AH, which stipulates in Clause (1): "Approval of the Value Added Tax Law" and in Clause (2): "The competent judicial authority stipulated by this Law shall be the Primary and Appeal Committees, as stipulated by the Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH"; and pursuant to Paragraph (1/a) Article (67) of Income Tax Law amended by Royal Decree No. (M/113), which stipulates: "1. A committee named the Tax Dispute and Violation Settlement Committee shall be formed, and it shall be entrusted with the following:a) Settlement of disputes and conflicts, as well as civil and criminal lawsuits arising from the application of tax laws and



regulations, as well as the decisions and directives related thereto.”; and since Plaintiff, as established from case file, filed the case through the electronic portal on 31/01/2022 AD and the due date of the amount claimed on 13/08/1439 AH, corresponding to 28/04/2018 AD, therefore the case is filed within the period prescribed by Law in Paragraph (8) of Article (67) of the Income Tax Law as amended by Royal Decree No. (M/113), which stipulates: “Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee”. The case thus fulfilled its formal requirements and the Department decided to accept the case in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted ample time to express and submit all statements and documents, the Department found that dispute lies in Plaintiff seeking payment from Defendant in an amount of (SAR 44,000) representing the VAT resulting from the real estate supply in the amount of (SAR 880,000), under Deed No. (395309000227) dated 29/08/1441 AH. Whereas Article (2) of Value Added Tax Law stipulates: “Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations”. Whereas Article (14) of the Implementing Regulations of Value Added Tax Law stipulates: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom”. Whereas the original burden of paying the tax as an indirect tax on received goods and services falls on the customer or the buyer (the recipient of the goods and services). Whereas the competent authority in collecting the VAT has issued a payment invoice to Plaintiff. Whereas Defendant is obligated to pay the VAT on the property due to purchase thereof. Whereas Defendant failed to provide proof of payment of the VAT owed by Defendant or waive of obligation thereof. Therefore, the Department decides to accept Plaintiff’s claim in this regard. Based on the foregoing, the Department, after deliberation, unanimously decided as follows:

Decision:

- To oblige Defendant/Bank, holding National ID No. (...), to pay Plaintiff, holding National ID No. (...) the VAT in the amount of (SAR 44.000) (Forty-four thousand Saudi riyals), representing the VAT amount in question.

This decision was delivered in presence of Parties. Date of depositing the decision in electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ -2022-2030)
Delivered in Case No. (R-
84207-2021)

Keywords:

Real Estate Transaction Tax – The Original Burden of Payment of Tax as an Indirect Tax on Received Goods and Services Falls on Customer or Buyer – Payment of Defendant of VAT Amount for Real Estate Supply in Question.

Abstract:

Plaintiff filed a case seeking refund from Defendant of an amount of (SAR 72,138.63) representing the VAT amount. – Defendant submitted a Reply stating the purchase of a property from Plaintiff for supplying thereof through real estate financing for Defendant customer Mr., under Financing Contract No. (...) in an amount of (SAR 650,000) dated (21/02/2019 AD). – The original burden of payment of tax as an indirect tax on received goods and services falls on customer or buyer. – The Department found that Plaintiff sold two properties, and that Defendant acknowledged the property supply process. However, Plaintiff failed to submit proof of acknowledgment of the First supply despite correspondence thereof. Department ruled to Accept Plaintiff's case and oblige Defendant to pay an amount of (SAR 31,996.60) representing the VAT amount for the real estate supply in question.

Documents:

- [Article \(30\) of Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 25/09/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and Royal Order No. (65474) dated 23/12/1439 AH, held its session to consider the above-mentioned case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of Tax Committees under the above number on 28/11/2021 AD.

Facts of this case are summed up in that Mr., National ID No. (...), in its own capacity, filed a statement of claim seeking a refund of the VAT from Defendant company, Commercial Registration No. (...), in an amount of (SAR 72,138.63). Upon presenting the statement of claim to Defendant's Attorney, it submitted a one-page Reply, which was reviewed by the Department. On Tuesday, 02/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session via video conference at 05:30 PM, in accordance with the



procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., Saudi national, under National ID No. (...), appeared in its capacity as Attorney of Defendant company, under POA No. (...). Despite being served of date set for the session as prescribed by Law, neither Plaintiff or representative thereof appeared at the session. Upon reviewing the case file by the Department, it unanimously decided to dismiss the case under Article (20) of Tax Dispute and Violation Committee Procedures.

On Sunday, 25/09/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its Second session via video conference at 05:30 PM, in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, Mr., Saudi National, under National ID No. (...), appeared in its own capacity as Plaintiff. Defendant's Attorney did not appear at the session. When Plaintiff was asked about its claim, Plaintiff responded according to the details provided in the memorandum submitted to General Secretariat of the Zakat, Tax, and Customs Committees, maintaining the contents thereof. Since the case has met all formal aspects and ready for adjudication as per Article (20) of the Tax Dispute Violation Committee Procedures, the Department decided to adjourn the session in preparation for delivering its decision.

Grounds:

Having reviewed the Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended; and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, as well as other relevant laws and regulations. **In Form:** Since Plaintiff, as established from case file, filed the case through the electronic portal on 28/11/2021 AD and the due date of the amount claimed on 15/06/1440 AH, corresponding to 20/02/2019 AD for ground floor, and 20/07/1440 AH, corresponding to 27/03/2019 AD for First floor, therefore the case is filed within the period prescribed by Law in Paragraph (8) of Article (67) of the Income Tax Law as amended by Royal Decree No. (M/113), which stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". The case thus fulfilled its formal requirements and the Department decided to accept the case in form.

On Merits: Upon reviewing the case files by the Department and response of Parties, having granted sufficient time to express and submit all statements and documents, the Department found that dispute lies in Plaintiff seeking payment from Defendant in an amount of (SAR 72,138.63) representing the VAT for supplying two properties to Defendant in an amount of (SAR 1,289,932), which detailed as follows: **(1)** A property in an amount of (SAR 650,000) under Deed No. (...) dated (.../06/1440 AH), corresponding to (.../02/2019 AD), with a VAT in an amount of (SAR 32,500). **(2)** A property in an amount of (SAR 639,932) under Deed No. (...) dated (.../07/1440 AH), corresponding to (.../03/2019 AD), with a VAT in an amount of (SAR 31,996.60). In view of Defendant's Reply, it stated that Defendant purchased the property in question from Plaintiff for supplying thereof through real estate financing for Defendant's customer Mr., under Financing Contract No. (...) in an amount of (SAR 650,000) dated (21/02/2019 AD). Defendant argues that the date of ownership transfer precedes the effective date of registration, therefore, Plaintiff is not subject to VAT during the transfer of ownership. Whereas the original burden of payment of tax as an indirect tax on received goods and services is on customer or buyer (the recipient of the goods and services), except if excluded by virtue of a specific provision from paying the tax on the goods and services received under specific cases mentioned in Article (30) of Common VAT Agreement of GCC States. Upon reviewing facts of the case by the Department,



it found out that Plaintiff sold two properties to company (the buyer); and since Defendant acknowledged the property supply process in the amount of (SAR 650,000), therefore, it indicates the existence of a common relationship between Company and Defendant; and since Plaintiff is registered under No. (...) dated (.../02/2019 AD) with an effective date (.../02/2019 AD) as in the submitted certificate; and since Plaintiff failed to submit proof of acknowledgment of the First supply despite correspondence thereof, accordingly, Defendant is entitled to impose a tax from the effective date of registration and to claim thereof for real estate supply in the amount of (SAR 639,932) with a VAT in an amount of (SAR 31,996.60). Therefore, the Department decided to accept Plaintiff case regarding the Second real estate supply. Based on the foregoing, and pursuant to provisions of Common VAT Agreement of GCC States, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided as follows:

Decision:

- To accept Plaintiff's case, holding National ID No. (...), and oblige Defendant/Company, Commercial Registration No. (...), to pay an amount of (SAR 31,996.60) (Thirty-one thousand nine hundred and ninety-six Saudi riyals and sixty halalas), representing the VAT amount of the real estate supply in question.

This decision was issued in presence of both parties under Article (21) of Tax Dispute and Violation Committee Procedures. The Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. This decision shall be deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-2375)
Delivered in Case No. (R-
83424-2021)

Keywords:

Real Estate Transaction Tax – Late Payment Fine – Acceptance Plaintiff's Case.

Abstract:

Plaintiff requested that ZATCA decision regarding the imposition of real estate transaction tax and late payment fine be abolished. – Plaintiff based its claim regarding the imposition of real estate transaction tax that: The owner of the Deed notified by ZATCA of the existence of a real estate transaction tax on the process of ownership transfer is Plaintiff's deceased father, and the process of ownership transfer conducted by Plaintiff seven months ago is only to divide the estate among the heirs in accordance with Sharia. In addition, the Notary Public informed Plaintiff that there is no tax obligation resulting from process of ownership transfer due to the division of the estate – ZATCA replied that: As for real estate transaction tax: Article (2) of Real Estate Transaction Tax Implementing Regulations stipulates: "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."; while Paragraph (A/1) of Article (3) stipulates: "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". – The Department found that: As for real estate transaction tax: Plaintiff has submitted Deed of Listing The Heirs and Deed of Ownership Transfer of property in question, which proves beyond doubt that the property was divided according to each heir's percentage of the deceased estate. As for the imposition of late payment fine: The fine in dispute was imposed as a result of the reassessment of real estate transaction tax, therefore, it shall have the same force and effect. – Department ruled to accept Plaintiff's case regarding the objection to the real estate transaction tax in question and abolish Defendant decision thereon; and to accept Plaintiff's case regarding the objection to the imposition of late payment fine and abolish Defendant decision thereon. – The decision shall be deemed final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Documents:

- Articles (2), (3), (8/c) of [Real Estate Transaction Tax Implementing Regulations issued by Ministerial Resolution No. \(712\) dated 15/2/1442AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 07/11/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1)



dated 15/01/1425 AH, and Royal Order No. (65474) dated 23/12/1439 AH, held its session to consider the above-mentioned case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of Tax Committees under the above number on 22/11/2021 AD.

Facts of this Case are summed up in that Mr....., holder of ID No....., acting on his own capacity, has filed a statement of case that included his objection to the Defendant's decisions regarding the imposition of RETT as well as a late payment penalty. He requests annulment of the Defendant's decisions.

Upon presenting the Plaintiff's statement of case to the Defendant's Attorney, he responded with a one-page replication, reviewed by the Department.

On Sunday, 09/10/2022, session of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah was resumed and held via video conferencing in accordance with remote litigation procedures, based on Clause (2) of Article (15) of Rules of Procedure for Tax Dispute and Violation Committees, issued by Royal Decree No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, the Plaintiff, (Saudi national), appeared in person, holder of national ID number (...), and ... (Saudi national) upon national ID number (...) attended as a representative of ZATCA, by virtue of Authorization Letter No. (...) dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. The Plaintiff, when questioned about his claim, responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming its contents. The Defendant's Attorney, when questioned regarding their response, affirmed the contents of the memorandum of reply. The Department, upon reviewing the Case file, requested the Plaintiff to attach the title deed. Consequently, the Department decided to postpone the Case to 25/10/2022 at 5 PM.

On Tuesday, 25/10/2022, session of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah was resumed and held via video conferencing in accordance with remote litigation procedures, based on Clause (2) of Article (15) of Rules of Procedure for Tax Dispute and Violation Committees, issued by Royal Decree No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, the Plaintiff, (Saudi national), appeared in person, holder of national ID number (...), and ... (Saudi national) upon national ID number (...) attended as a representative of ZATCA, by virtue of Authorization Letter No. (...) dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. The Plaintiff, when questioned about his claim, responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming its contents. The Defendant's Attorney, when questioned regarding their response, affirmed the contents of the memorandum of reply. The Department, upon reviewing the Case file, requested the Plaintiff to attach the title deed. Consequently, the Department decided to postpone the Case to 07/11/2022 at 04:00 PM.

On Monday, 07/11/2022, session of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah was resumed and held via video conferencing in accordance with remote litigation procedures, based on Clause (2) of Article (15) of Rules of Procedure for Tax Dispute and Violation Committees, issued by Royal Decree No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, the Plaintiff, (Saudi national), appeared in person, holder of national ID number (...), and ... (Saudi national) upon national ID number (...) attended as a representative of ZATCA, by virtue of Authorization Letter No. (...) dated .../11/1443 AH issued by the Deputy Governor for Legal Affairs. The Department, upon reviewing the Case file, the attached deed, and the additional documents submitted by the Plaintiff, decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds:

After reviewing the Case documents, and upon careful examination, and in light of Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425



AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by ZATCA's BOD Decision No. (3839) dated 14/12/1438 AH as amended, Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff's claim seeks to annul the Defendant's decision regarding the imposition of RETT and late payment penalty, given that this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and since the Case was filed by an authorized party and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: The Department, upon careful consideration of the case documents and the responses of both parties after granting them sufficient time to present their arguments, found that the Plaintiff's objection to the Defendant's decision regarding the imposition of RETT and late payment penalty is well-founded. Accordingly, the Department noted the following:

First: Real Estate Transaction Tax: The dispute lies in the Plaintiff's objection to the Defendant's reassessment of RETT on the properties in question. Article (2) of the Implementing Regulations of RETT states that "A tax of (5%) five percent is imposed on the total value of the transaction of real estate regardless of its condition, form, or use at the time of the transaction, including the plot and any structures, buildings, or constructions thereon, whether the transaction pertains to the plot in its current state or after structures constructed thereon, and whether the transaction covers the entire property or any part thereof, whether segregated or shared, residential unit or other types of real estate, and whether the transaction is documented or undocumented. Whereas Article (3) of Implementing Regulations of RETT stipulates: "A. The following cases shall be excluded, in full or part, from the RETT application scope: 1. Disposal of real estate property in cases of inheritance division or distribution. Conveyance of real property as a gift documented by the competent authority; to the spouse or one of the relatives up to the Second degree, or pursuant to a legally documented Islamic will not exceeding one-Fourth of the testator's inheritance". After reviewing all Plaintiff's defenses, it is evident to the Department that the Plaintiff objects to the Defendant's decision; wherein the Plaintiff stated in his objection that the Defendant (ZATCA) had notified him with the following: "Imposition of a tax on the conveyance of title deed number ... under application number ..., which was conveyed over seven months ago. While the title deed is in my name, the ownership was merely nominal, as the rightful owner is my deceased father (may he rest in peace), whose civil registration number is The purpose of my father conveying this title deed to my name was to divide the duplex villa into two separate units, each with its own independent title deed, while the actual ownership remained with my father. The conveyance I made seven months ago was only to divide the inheritance among the heirs according to Islamic law. This is clearly reflected in the conveyance, as the shares allocated to each heir were proportionate to their respective shares of the inheritance from the deceased, rather than an equal division among all parties." The Plaintiff added that he was informed by the notary public that there was no tax liability resulting from the conveyance due to the inheritance division. The Department, after examining the documents provided by the Plaintiff, including the inheritance distribution deed and the property transfer deed, which clearly establishes that the property was divided according to the share of each heir in the inheritance of the deceased, decided to accept the Defendant's Case regarding RETT.

Second: Late Payment Penalty Clause: The dispute lies in the Plaintiff's objection to the Defendant's imposition of a late payment penalty resulting from the reassessment of RETT. Since the Department concluded in the First Clause to annul the Defendant's action, and given that related matters are subject to the same ruling, the Department, based on Article (8) Paragraph (c) of the Implementing Regulations of RETT, the Department determines that the Plaintiff's claim regarding the late payment penalty should be accepted.



Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Rules of Procedure for Tax Dispute and Violation Committees, the Department unanimously decided after deliberation:

Decision:

First: To accept the Plaintiff's Case regarding the objection to RETT in question and to annul the Defendant's decision.

Second: To accept the Plaintiff's Case regarding the objection to late payment penalty in question and to annul the Defendant's decision.

This decision was issued in the presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for receipt by an additional thirty days if deemed necessary. The parties to the Case may appeal the decision within thirty (30) days from the day following the date set for receipt. If no objection is filed, the decision becomes final and enforceable upon expiration of this period. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-2546)
Delivered in Case No. (R-91013-
2022)

Keywords:

RETT - Reassessment – Late Payment Penalty – Adjustment of RETT Due Amount.

Abstract:

The Plaintiff's claim seeks the annulment of ZATCA's decision regarding the reassessment, which resulted in an adjustment of RETT due amount and imposition of a late payment penalty. The Plaintiff based his claim on the following grounds related to the reassessment: The Plaintiff argued that the property is exempt from tax because it was transferred from a father to his son, and the sale and settlement were completed ten years ago. However, the transfer and conveyance only took place on 16/09/1442 AH, with witnesses available to support this. ZATCA responded that the declared sale amount is considered less than the fair market value. Regarding the Plaintiff's claim that the property is exempt from tax, ZATCA stated that since the transfer and sale were conducted at a monetary value, exemptions do not apply. Moreover, the Department, in relation to the adjustment of RETT due amount, found that: Conveyance was completed after death of the property owner (the father), whose death is documented on 25/05/1432 AH. Since transactions involving the division or distribution of inheritance are exempt from tax. Therefore, the Department ruled: To accept the Plaintiff's objection regarding the imposition of RETT and annul the Defendant's decision to impose the tax. It is established that the Defendant has the right to impose RETT amounting to five thousand riyals according to the Real Estate Supply with the Ministry of Justice. Moreover, all penalties related to the imposition of RETT are hereby canceled. The decision is considered final and enforceable pursuant to Article (42) of Rules of Procedure for Tax Dispute and Violation Committees.

Documents:

- Article (3/a/1) of [the Implementing Regulations for RETT, as amended by Ministerial Decision No. \(2229\) dated 07/06/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 20/11/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 13/01/2022.



Facts of this Case are summarized that National ID Number (.....) in his capacity as the Attorney under PoA under (.....) for the Plaintiff (...), National ID (...), submitted a statement of case that included an objection to the Defendant's decision regarding the reassessment, which resulted in an adjustment of RETT due amount and imposition of late payment penalty. Furthermore, they requested annulment of the Defendant's decision. Upon presenting the Plaintiff's statement of case to the Defendant's Attorney, he responded with a one-page replication, reviewed by the Department.

On Sunday, 20/11/2021, The First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah was resumed, held via video conferencing in accordance with remote litigation procedures, based on Clause (2) of Article (15) of Rules of Procedure for Tax Dispute and Violation Committees, issued by Royal Decree No. (26040) dated 21/04/1441 AH. Upon calling the parties to the Case, (...) national ID (...) attended as an attorney under the attached PoA and (.....), Saudi National under national ID number (...) attended as well as ZATCA's representative by virtue of Authorization Letter No. (...) dated ../12/1443 AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds:

After reviewing the Case documents, and upon careful examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff's claim seeks to annul the Defendant's decision regarding reassessment that resulted in the adjustment of RETT due amount and imposition of late payment penalty, given that this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and since the Case was filed by an authorized party and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: After reviewing the entire case file and its contents, it is evident that the Plaintiff objects to the reassessment issued by the Defendant. The Plaintiff argued in their statement of case that the property is exempt from tax because it was transferred from a father to his son, and the sale and settlement were completed ten years ago. However, the transfer procedure took place on 6/09/1442 AH, with witnesses available to support this. The Plaintiff requested the annulment of the tax imposed based on the Defendant's assessment of the market value of the property in question. The Defendant's response to the Plaintiff's case included the following points: "We inform the esteemed committee that after ZATCA reassessed the value of the property in question, located in King Abdullah District, Riyadh, it was found that the declared sale amount of SAR (100,000) is significantly lower than the fair market value. According to the data recorded with the Ministry of Justice for the same area where the property is located, the lowest price per square meter is SAR (2,300), the highest price per square meter is SAR (3,700), and the average price per square meter is SAR (3,106.56). The Plaintiff sold the property at a price lower than the market value and at an amount not comparable to the average prices, indicating a substantial disparity between the declared sale value and the actual market value of the property. Therefore, ZATCA studied and estimated the average sale prices for the same area where the property in question is



located and reassessed the property's value to be SAR (1,488,303) after adjustment. Regarding the Plaintiff's claim that the property is exempt from tax because the sale applies to the exemption cases stipulated in the regulations, ZATCA clarifies that the conveyance and sale were conducted at a financial value, and thus, the exemption cases specified in Article (3) of the Implementing Regulations for RETT not apply. Accordingly, the Defendant reassessed the property's sale value and the amount of tax due. After thoroughly examining all the documents attached to the case file, the Department determined that the property in question was conveyed on 16/09/1442 AH. According to RETT issued by ZATCA, the property owner (the seller) is (...), holder of ID number (...), who was confirmed deceased on 25/05/1432 AH, as per the inheritance certificate issued by the General Court in Riyadh and attached to the case file. Whereas the purchaser (...) is an heir of the seller, and pursuant to paragraph (a/1) of Article (3) of the Real Estate Transactions Regulations, as amended by Whereas the purchaser (...) is an heir of the seller, and pursuant to paragraph (a/1) of Article (3) of the Real Estate Transactions Regulations, as amended by Ministerial Decision No. (2229) dated 07/06/1442 AH, transactions in real estate in cases of inheritance division or distribution are exempt from tax. Therefore, the Department finds the Plaintiff's claim valid in objecting to RETT amount arising from the adjustment of the sale value according to the estimated market value of the property. However, this does not nullify the Defendant's right to collect RETT amount based on the sale value stated in the title deed, amounting to SAR (100,000), with a tax of SAR (5000). Accordingly, based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Rules of Procedure for Tax Dispute and Violation Committees, the Department, after deliberation, unanimously decided:

Decision:

First: To accept the Plaintiff's objection regarding the imposition of RETT and to annul the Defendant's decision to impose the tax.

Second: To establish the Defendant's right to impose RETT amounting to five thousand riyals based on the real estate supply value registered with the Ministry of Justice.

Third: To annul the penalties resulting from the imposition of RETT.

This decision was issued in the presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for additional thirty (30) days as it deems appropriate. The parties to the case may request its appeal within (thirty) days from the day following the date specified for receipt thereof. In the event that objection is not submitted, it shall become final and enforceable after expiry of this period. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-2558)
Delivered in Case No. (V-96321-
2022)

Keywords:

RETT - Tax Period – Reassessment – Higher Value – Late Payment – Defects in the Sold Plot– Tax Evasion.

Abstract:

The Plaintiff demands the annulment of the decision of ZATCA regarding the reassessment of RETT and the resulting penalties. - The Plaintiff grounded their objection regarding RETT Clause on the following: The Defendant's decision to reassess the property at a higher value than the sale price, resulting in imposition of the due RETT amount and a late payment penalty. - It was established for the Department concerning the First Clause: The evidence presented by the Defendant is merely a presumption subject to doubt and consists of estimates that may be erroneous. Therefore, the Department finds that it does not constitute conclusive proof of the Plaintiff's bad faith in selling the property for less than its market value. Furthermore, the Plaintiff provided evidence of defects in the property subject to the Case, proving that the sale price is genuine and not tainted by deception or fraud for the purpose of tax evasion. Regarding the Second Clause: As for the First Clause, it shall be decided accordingly. - The Department ruled to: Accept the Plaintiff's claim and annul the Defendant's decision.

Documents:

- Article 43 of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Article (2) of [the Implementing Regulations of the Real Estate Transaction Tax issued under Royal Decree No. \(A/84\) dated 14/02/1442 AH, as amended.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Sunday, 04/12/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 21/02/2022.

Facts of this Case are summarized that National ID Number (.....) in his capacity as the Attorney under PoA under (.....) for the Plaintiff (...), National ID (...), submitted a statement of case that included their objection to the Defendant's decision regarding the reassessment of RETT



and the resulting penalties. Furthermore, they requested annulment of the Defendant's decision. Upon presenting the Plaintiff's statement of case to the Defendant's Attorney, he responded with a one-page replication, reviewed by the Department.

On Sunday, 20/11/2022, session of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah was resumed and held via video conferencing in accordance with remote litigation procedures, based on Clause (2) of Article (15) of Rules of Procedure for Tax Dispute and Violation Committees, issued by Royal Decree No. (26040), dated 21/04/1441 AH. Upon calling the parties to the Case, (...), holder of national ID number (...) PoA (...) and (...) Saudi National under national ID number (...) attended In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../12/1443 AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming its contents. When the Defendant's attorney was questioned about his response, he stated that he stands by the memorandum of reply submitted in the Case file and requested additional time to respond to the property valuation attached by the Plaintiff's Attorney to the Case file. Accordingly, the Department decided to grant him additional time to respond and postponed the session to 04/12/2022 at 4:00 PM.

The Defendant presented a two-page supplementary memorandum, reviewed by the Department on 04/12/2022. On Sunday, 04/12/2022, session of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah was resumed and held via video conferencing in accordance with remote litigation procedures, based on Clause (2) of Article (15) of Rules of Procedure for Tax Dispute and Violation Committees, issued by Royal Decree No. (26040), dated 21/04/1441 AH. Upon calling the parties to the Case, (...), holder of national ID number (...) in his capacity as the Plaintiff's Attorney under PoA (...) and (...) Saudi National under national ID number (...) attended In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. The Department, at the beginning of the session, after reviewing the attachments submitted by the Defendant and determining readiness of the Case for adjudication, decided to adjourn the session in preparation for issuing the decision.

Grounds:



After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff's claim seeks to annul the Defendant's decision regarding reassessment of RETT and the resulting penalties, given that this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and since the Case was filed by an authorized party and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: The Department, upon careful consideration of the Case documents and considering the responses of both parties after allowing sufficient time for them to present their arguments, determined that the dispute centers on the reassessment of RETT and the resulting penalties.

Accordingly, the Department found the following:

First: Real Estate Transaction Tax: Given that the dispute centers on the Plaintiff's objection to the Defendant's decision to reassess the property at a higher value than the sale price, resulting in



an additional RETT payable, and given that Article (2) of RETT Implementing Regulations, which states that: “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. The evidence presented by the Defendant is merely a presumption subject to doubt and consists of estimates that may be erroneous. Therefore, the Department finds that it does not constitute conclusive proof of the Plaintiff's bad faith in selling the property for less than its market value. Furthermore, the Plaintiff provided evidence of defects in the property subject to the Case, proving that the sale price is genuine and not tainted by deception or fraud for the purpose of tax evasion. Regarding the Second Clause: Therefore, the Department concludes that the Plaintiff's claim should be accepted and the Defendant's decision should be annulled.

Second: Late Payment Fine: Since the Department concluded in the First Clause concerning the final assessment of RETT involved in the case to annul the Defendant's decision, and as related matters are subject to the same ruling, therefore, based on Article (43) provisions of Value Added Tax Law, the Department concluded to annul the Defendant's decision regarding the imposition of the late payment penalty.

Accordingly, based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Rules of Procedure for Tax Dispute and Violation Committees, the Department, after deliberation, unanimously decided to:

Decision:

First: Accept the Plaintiff's claim and annul the Defendant's decision regarding the imposition of real estate transaction tax penalty in dispute.

Second: Annul the Defendant's decision regarding the imposition of the late registration penalty in the case.

This decision was rendered in presence of both parties. In addition, the Department set thirty (30) days as a date for receiving copy of the decision, and may extend delivery date for another (30) days. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-2048)
Delivered in Case No. (R-85514-
2021)

Keywords:

RETT - Initial Assessment of RETT - Late Payment Penalty – Consideration of the Fair Market Value of the Property as the Basis for Calculating the Tax Amount – Discrepancy in the Tax Amount Due that was Not Paid within the Legal Deadline – Conclusion of the Case.

Abstract:

The Plaintiff objected to ZATCA's decision regarding the initial assessment of RETT amounting to SAR (67,046.85) as well as the late payment penalty resulting from the assessment amounting to SAR (10,057) -ZATCA argued that: The Plaintiff sold the property at a price lower than its fair market value as determined by ZATCA. Consequently, ZATCA considered the fair market value of the property as the basis for calculating the tax amount, after excluding the amount eligible for First-time homebuyer benefits. This necessitated a revision of the declaration, resulting in a discrepancy in the tax amount due that was not paid within the prescribed period. As a result, a late payment penalty was imposed for the months following the property transaction. The Department found that since the Defendant had reversed its decision, as indicated in the Defendant's memorandum of reply and agreed upon by the Plaintiff in the session held on 18/10/2022, the Case is therefore considered concluded due to the absence of a subject matter. Department ruled to Consider the Case concluded due to the parties' agreement to adjust the RETT amount to be SAR (1,005,000) as well as the penalty amount to be SAR (250) and obligate both parties to implement these adjustments -considering the decision final and enforceable.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

The First Department to Adjudicate Value Added Tax Violations and Disputes, established pursuant to the Income Tax Law issued pursuant to Royal Decree No. (M/1) dated 15/1/1425 AH as amended and constituted pursuant to Royal Decree No. (13957) dated 26/2/1444 AH, convened a meeting on Tuesday, 18/10/2022, in Dammam.

Facts of this Case are summarized that, holder of national ID number (.....), filed an objection to the initial assessment of RETT amounting to SAR (67,046.85) and the late payment penalty of SAR (10,057), issued by ZATCA. In response to the statement of case, the Defendant rejected the Case, stating that the Plaintiff had sold the property at a price lower than its fair market value as determined by ZATCA, which considered the fair market value of the property as the basis for calculating the tax amount, after excluding the amount eligible for First-time homebuyer benefits. This necessitated a revision of the declaration, resulting in a discrepancy in the tax amount due



that was not paid within the prescribed period. As a result, a late payment penalty was imposed for the months following the property transaction.

The session was held on Monday 03/10/2022 in accordance with remote litigation procedures. Given that both parties wished to proceed with the Case, where the Plaintiff, holder of National ID No. (...), appeared in person, and the Defendant's Attorney, holder of National ID No. (...), attended as a representative of ZATCA, by virtue of Authorization Letter No. (...) dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. The Plaintiff, when questioned about their claim, responded in accordance with the statement submitted to the General Secretariat of Tax Committees, affirming its contents. On the other hand, the Defendant's Attorney stated that the assessment issued by ZATCA was conducted due to Plaintiff's failure to submit the required documents for the assessment. Upon the Plaintiff's submission of the requested documents, an adjournment was requested. Accordingly, the Department adjourned the session to 18/10/2022. The Defendant responded with a memorandum of reply, stating the following: After reviewing the documents submitted by the Plaintiff and attached to the case file, ZATCA approved to adjust the real estate disclosure to the amount stated in the real estate assessor's 's report provided by the Plaintiff amounting to SAR (1,005,000) and adjust the late payment penalty to be SAR (250), due to the Plaintiff's disclosure of the real estate transaction amounting to SAR (1,000,000), necessitating ZATCA to adjust the disputed real estate disclosure.

The session was held on Tuesday 18/10/2022 in accordance with remote litigation procedures. Given that both parties wished to proceed with the Case, where the Plaintiff, holder of National ID No. (...), appeared in person, and the Defendant's Attorney, holder of National ID No. (...), attended as a representative of ZATCA, by virtue of Authorization Letter No. (...) dated 18/10/1443 AH issued by the Deputy Governor for Legal Affairs. The Department confronted the Plaintiff with the Defendant's memorandum, which included the agreement to adjust the real estate transaction to be SAR (1,005,000) in accordance with the independent assessment presented by the Plaintiff and to adjust the penalty to be SAR (250). The Plaintiff, when confronted, confirmed their agreement and requested that a decision be issued accordingly. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Accordingly, the Department decided to temporarily dismiss both parties from the remote session for deliberation and decision issuance. After due deliberation, the following decision was issued:

Grounds:

After reviewing the relevant laws and regulations, and given that a case is established by the presence of the litigation element, it is necessary to rule on the termination of the litigation whenever this element is absent or ceases for any reason at any stage of the case. Since the Defendant reversed their decision, as stated in the Defendant's memorandum of reply, and the Plaintiff agreed in the minutes of the session held on 18/10/2022, the Case is therefore considered terminated due to the absence of a subject matter for the dispute. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Rules of Procedure for Tax Dispute and Violation Committees, the Department unanimously decided after deliberation:

Decision:

- Consider the Case concluded due to the parties' agreement to adjust the RETT amount to be SAR (1,005,000) as well as the penalty amount to be SAR (250) and obligate both parties to implement these adjustments.

This decision was issued in the presence of both parties in accordance with the provisions of Article 21 of Rules of Procedure for Tax Dispute and Violation Committees. The Department set a period of thirty (30) days for the receipt of a copy of the decision and may extend the deadline



for additional thirty (30) days as it deems appropriate. The decision is considered final and enforceable in accordance with Article (42) of the Committee Rules of Procedure.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(The ruling is deemed final and imperative based on Article (42) of Rules of Procedure for Tax Dispute and Violation Committees).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-2208)
Delivered in Case No. (R-
82553-2021)

Keywords:

RETT - Conveyance data before prior to the effective date of registration - The principal responsibility for bearing the tax burden on received goods and services lies with the client.

Abstract:

The Plaintiff's claim against the Defendant for the payment of VAT amounting to SAR (55,000) for selling a property to the Defendant valued at SAR (1,100,000) dated (07/11/1441 AH) corresponding to (28/06/2020 AD). -ZATCA responded as follows: It was established that the conveyance date preceded the registration effective date, meaning the Plaintiff was not a taxpayer at the time. -However, the Department found that the general principle for indirect taxes is that the customer or purchaser (the recipient of goods and services) bears the burden of payment, except where specifically exempted by law. Given the facts of the Case, it is evident that the Plaintiff sold a property to the Defendant for SAR (1,100,000) as stated in the attached deed, and has the right to impose the tax as per the attached certificate, which is considered effective at the time of conveyance. Department ruled to Accept the Plaintiff's claim, obligating the Defendant to pay the Plaintiff an amount of SAR (55,000) -the decision is considered final and enforceable.

Documents:

- Article (26/2) and (30/1) of [The Common VAT Agreement of GCC States, issued pursuant to Royal Decree No. \(M/51\) dated 03/05/1438 AH](#)
- Article (14) of [the Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 30/02/1444 AH corresponding to 26/09/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 16/01/2021.

Facts of the Case are summarized that, holder of National ID Number (...), in his capacity as the legal representative of the Plaintiff/..., holder of National ID Number (...), under PoA No. (...), against/... Company, Commercial Registration No. (...), submitted a statement of case included



the Defendant's claim to refund the VAT amounting to SAR (55,000), resulting from the Plaintiff's sale of a property located in district for a total value of SAR (1,100,000).

Upon presenting the statement of case to the Defendant, they responded with a memorandum of reply stating: "Financing Contract Number: Value of the property purchased from the Plaintiff (SAR): 650,000. Property Conveyance date: June ... 2020 It was found that, upon verification of the request, the conveyance date preceded the effective date of registration, meaning the Plaintiff was not a taxpayer. Based on the foregoing, my client requests that the Case be dismissed". This concludes Defendant's response.

The session was held on Monday 12/09/2022 AD in accordance with remote litigation procedures. Upon calling the parties to the Case, ..., holder of National ID Number (...), attended in his capacity as the Plaintiff's attorney under PoA number (...) and ..., holder of National ID Number (...), attended in his capacity as the Defendant's attorney under PoA number (...). The Plaintiff's attorney, when questioned regarding their claim, he responded in accordance with the statement submitted to the General Secretariat of Tax Committees, affirming its contents. While the Defendant's attorney, when questioned regarding their response, he reaffirmed their stance as outlined in the memorandum of reply. The Department requested the Defendant's attorney to clarify the total value of the supply transaction, as the Defendant had stated an amount that differed from that indicated in the sale deed. Additionally, the Defendant claimed that the conveyance date preceded the effective date of registration, while the taxpayer's registration certificate indicated that the effective date of registration was prior to the sale date, urging the Department to request clarification on this matter. Accordingly, the Department decided to adjourn the case to 26/09/2022 at 1:00 PM, requiring the Defendant to submit their response by 15/09/2022, and the Plaintiff to review the submission and respond by 20/09/2022.

The session was held on Monday 26/09/2022 AD in accordance with remote litigation procedures. Upon calling the parties to the case, ..., holder of National ID Number (...), attended in his capacity as the Plaintiff's attorney under PoA number (...), while the Defendant was absent. The Plaintiff's attorney, when questioned if there was anything additional to present beyond what was previously submitted through the statement of case and subsequent responses, responded with denial. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds:

After reviewing the Case documents, and upon careful examination, and in light of Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and its Implementing Regulations issued by ZATCA's BOD Decision No. (3839) dated 14/12/1438 AH as amended, Rules of Tax Dispute and Violation Committee Procedure issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff aims to recover VAT amounting to SAR (55,000) pursuant to Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations according to Royal Order No.

(26040) dated 21/04/1441 AH. Since the Case was filed by an authorized party and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: It is evident that, upon reviewing the case documents and the responses from both parties after providing them sufficient time to present their arguments, the dispute between Plaintiff and Defendant concerns the demand for VAT payment of SAR (55,000) for supplying a property to the Defendant valued at SAR (1,100,000) dated 07/11/1441 AH Corresponding to (28/06/2020). The Common VAT Agreement of GCC States, Article (26), paragraph (2), stipulates that: "The supply value shall be the consideration value exclusive of tax, and shall include the value of the non-cash portion of the specified consideration based on the fair market value".



Article (30), Paragraph (1) of the same states that: “It is at the discretion of each member state to exempt the below stated categories from payment of tax upon receiving goods & services in such state. Further, It’s for the discretion of each member state to allow such persons to get refund of tax incurred upon receiving goods & services, and this shall be in accordance with the conditions and modalities determined by such states, and such categories shall include the following: Government organizations determined by each state -Charitable organizations and public utility establishments as determined by each state- Exempted companies by virtue of agreements for hosting international events - Citizens of a member state upon building their homes for personal use - Farmers & fishermen not registered for tax. Article (14) of the Implementing Regulations of Value Added Tax Law states that: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom..”

Upon a thorough review of the entire case file, including all arguments, Plaintiff's claim against the Defendant is for the payment of VAT amounting to SAR (55,000) for the supply of a property to the Defendant for a value of SAR (1,100,000), which was subsequently sold to Defendant's client, citizen, through a mortgage financing as evidenced by Deed No. (...) dated (.../11/1441 AH) Corresponding to (.../06/2020) and further supported by a property purchase agreement with a purchase option for the purchaser, bearing request number (...) dated (.../06/2020). It was acknowledged that, after reviewing Defendant's memorandum of reply, the supply was for the purpose of selling to a client for a mortgage financing under contract number (...) for a value of SAR (650,000) dated (.../06/2020). The Defendant contends that the Plaintiff is not considered a taxpayer, given that the property was conveyed prior to the effective date of registration. Whereas the original burden of payment of tax as an indirect tax on received goods and services is on customer or buyer (the recipient of the goods and services), except if excluded by virtue of a specific provision from paying the tax on the goods and services received under specific cases mentioned in Article (30) of Common VAT Agreement of GCC States. It is evident that, upon careful examination of the Case facts, the Plaintiff sold a property to the Defendant for SAR (1,100,000) as stated in the attached deed. The Plaintiff is entitled to impose VAT, particularly since they are registered for VAT under number (...) dated (.../07/2020) with an effective date of (.../06/2020) as evidenced by the attached certificate, which was in effect at the time of the property conveyance. Therefore, the Department decided to accept the Plaintiff's claim.

Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Rules of Procedure for Tax Dispute and Violation Committees, the Department unanimously decided after deliberation:

Decision:

- Accept claim of the Plaintiff, holder of National ID Number (...) against the Defendant/ Company, Commercial Registration No. (...), obligating the Defendant to pay the Plaintiff an amount of SAR (55,000) (Fifty-Five Thousand Riyals).

This decision was issued in presence of both parties. The date on which the decision was entered into the electronic system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of service. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.



(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-2244)
Delivered in Case No. (R-87712-
2021)

Keywords:

RETT Assessment - Transfer of Property Ownership – Late Payment Penalty – Acceptance of the Case.

Abstract:

Plaintiff's objection concerns ZATCA's decision in relation to RETT assessment resulting from the transfer of property ownership, as well as the late payment penalty, seeking the annulment of Defendant's decision. ZATCA argued that the Case should not be accepted in form due to the decision being immune from challenge. However, on the merits, Plaintiff informed ZATCA during the objection phase that the plot was transferred to his brother as a gift and financial assistance with certain financial matters related to a debt. This transaction is subject to tax as the exception does not apply in accordance with RETT. The Department found that Department ruled to Accept the Plaintiff's claim and annul the Defendant's decision and any penalties resulting therefrom – the decision is considered final and enforceable.

Documents:

- Articles (3/6) and (2/6) of [the Implementing Regulations of RETT issued by Royal Decree No. \(A/84\) dated 14/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 22/03/1444 AH Corresponding to 18/10/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 23/12/2021.

Facts of this Case are summed up in that, holder of National ID No....., acting on his own capacity, filed a statement of case that included their objection to the Defendant's decision regarding the reassessment of RETT resulting from the transfer of property ownership, as well as a late payment penalty. They request annulment of Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: First: formal aspect: Dismiss the Case in form due to the immunity of the decision in accordance with the provisions of Article (3), Paragraph (2) of the Rules of Procedure for Tax Dispute and Violation Committees.



The Defendant's attorney concluded their memorandum by asserting that the Case should not be accepted in form. This concludes Defendant's response.

The session was held on Thursday 03/10/2022 in accordance with remote litigation procedures. Given that both parties wished to proceed with the Case, where the Plaintiff, holder of National ID No. (...), appeared in person, and the Defendant's Attorney, holder of National ID No. (...), attended as a representative of ZATCA, by virtue of Authorization Letter No. (...) dated 18/10/1443 AH issued by the Deputy Governor for Legal Affairs. The Plaintiff, when questioned about their claim, responded in accordance with the statement submitted to the General Secretariat of Tax Committees, affirming its contents. Moreover, he further stated the plot was registered in his father's name since 1431 AH, and was transferred to his name after their father's death in 1436 AH. Conveyance was made on 3/5/1441 AH and then transferred to his father on 23/9/1442 AH as his share in the inheritance. In response to Plaintiff's assertion, Defendant's attorney requested an adjournment to verify the procedural aspects of the claim, promising to submit a response addressing both the procedural and substantive issues. Accordingly, the Department decided to adjourn the session until 18/10/2022 at 1:00 PM. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

the Defendant submitted a memorandum of reply, stating: On merits: The Plaintiff informed ZATCA during the objection phase that the plot was transferred to his brother as a gift and financial assistance with certain financial matters related to a debt. This transaction is subject to tax as the exception in Article (3), Paragraph (6) of the Implementing Regulations of RETT does not apply in accordance RETT Law. There appears to be a discrepancy between Plaintiff's statements to ZATCA and those made before you during the previous session, where the Plaintiff claimed that the land was the brother's share of the inheritance. If we assume Plaintiff's statements are correct (which ZATCA does not concede), then the division of the inheritance involves the deceased's assets being distributed among the heirs. The real estate transaction shows that the property was transferred from the Plaintiff, the original owner, to the purchaser (the brother). ZATCA exercised its powers granted under Article (6), Paragraph (2) of the Implementing Regulations of RETT, which stipulates: "For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to: 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", urging it to reassess the value of the properties and transactions declared by the Plaintiff, based on the average market value within the same plot as obtained from the Ministry of Justice's data, after verifying Plaintiff's eligibility for the exemption mentioned in Article (3), Paragraph (6) of the Implementing Regulations of RETT, which stipulates that: "The following cases shall be excluded, in full or part, from the RETT application scope: 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". It was evident, during the examination and review phase, that the exemption stipulated in the aforementioned article was not applicable and thus the transaction amounts were subject to tax. The article stipulates that the exemption applies only to relatives up to the Second degree. Since the real estate transaction carried out by the Plaintiff was for the benefit of his brother, who is a Third-degree relative, this confirms the validity of ZATCA's decision. Accordingly, ZATCA reaffirms its stance on the decision to amend RETT in question and rejects the Plaintiff's claims. The Defendant's attorney concluded their memorandum by dismissing the Case. This concludes Defendant's response.

The session was held on Tuesday 18/10/2022 in accordance with remote litigation procedures. Given that both parties wished to proceed with the Case, where the Plaintiff, holder of National ID No. (...), appeared in person, and Defendant's Attorney, holder of National ID No. (...), attended as a representative of ZATCA, by virtue of Authorization Letter No. (...) dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. The Plaintiff, when questioned regarding the deed conveyance date, responded that it was on 23/9/1442 AH, corresponding to



5/5/2021 and Defendant's attorney confirmed the same. When both parties were questioned if they wished to add anything further, they both indicated that they were satisfied with their previous submissions.

Grounds:

After reviewing the Case documents, and upon careful examination, and in light of Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and its Implementing Regulations issued by ZATCA's BOD Decision No. (3839) dated 14/12/1438 AH as amended, Rules of Tax Dispute and Violation Committee Procedure issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision regarding the reassessment of RETT resulting from transfer of ownership of the property, and the imposition of a late payment fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: The Department, upon careful consideration of the Case documents and considering the responses of both parties after allowing sufficient time for them to present their arguments, determined that the dispute centers on

Having reviewed the Case file and its accompanying documents, it is evident that... Wherefore, the Department orders the annulment of the Defendant's decision.

Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Rules of Procedure for Tax Dispute and Violation Committees, the Department unanimously decided after deliberation:

Decision:

- Accept the Plaintiff's claim and annul the Defendant's decision and any penalties resulting therefrom.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(The judgment became final and imperative because the case value is less than SAR 50,000 based on Article 42 of Tax Dispute and Violation Committee Procedures.)



**Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam**

**Decision No. (VD-2022-61747)
Delivered in Case No. (R-96130-
2021)**

Keywords:

Real Estate Transaction Tax - Revaluation of property at a higher value than the sale price - Late payment penalty - Declared property value does not reflect its true value - Adjustment of the tax amount due - Failure to provide necessary supporting documents to calculate the difference - Acceptance of the Plaintiff's claim.

Abstract:

The Plaintiff's objection to ZATCA'S decision regarding the revaluation of the property at a higher value than the sale price, which resulted in the payment of RETT and a late payment penalty. The Plaintiff demands the refund of RETT and the associated penalty. - ZATCA argued the following: ZATCA found that the declared value of the property does not reflect its true value and is considered to be below market value. As a result, ZATCA adjusted the amount of the tax due. It was established to the Department that, considering RETT, the Plaintiff objected to the Defendant's decision and provided evidence of paying an amount of SAR (20,000) as RETT according to the final assessment notice sent by the Defendant that not clarify in the memorandum of reply or in the revaluation results notice the mechanism for calculating the property's value at a higher amount than the declared value. Additionally, the Defendant did not provide the necessary supporting documents upon which the difference was calculated, nor did it explain the methods and approaches used to recalculate the sale price after adjustment. As for the late payment penalty, since the First Clause resulted in the annulment of the Defendant's decision, the penalty, being a consequence thereof, shall likewise be annulled. Accept the Plaintiff's claim and annul the Defendant's decision and any penalties resulting therefrom. - The Department ruled to: Accept the Plaintiff's claim and annul the Defendant's decision and any penalties resulting therefrom – the decision is considered final and enforceable.

Documents:

- Articles (2) and (4) of [the Implementing Regulations for RETT, as amended by Ministerial Decision No. \(712\) dated 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 14/11/2022, First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and amendments thereof, and constituted by Royal Order No. (13957) of 26/02/1444 AH. Facts of this Case are summarized that (.....), holder of National ID number



(...), submitted an objection to the reassessment of the property at a value higher than the sale price, which resulted in the payment of RETT and late payment penalty. The Plaintiff demands the refund of RETT and the associated penalty.

The Defendant responded with a memorandum of reply, stating the following: First: With regard to due RETT after reassessment: ZATCA, in accordance with its legally granted powers, reassessed the value of the property in question, as it determined that the declared value of the property did not reflect its true value and was lower than the market value. As a result, ZATCA adjusted the amount of tax due based on Article (4) of the Implementing Regulations of RETT and Articles (5) and (6) of the same regulations. Second: Late payment fine: Due to the increase in the amount of tax due resulting from the aforementioned reassessment, which was not paid by the Plaintiff within the statutory period, a late payment penalty was imposed based on Paragraph (c) of Article (8) of the Implementing Regulations of RETT. End of Answer.

On Monday, 14/11/2022, the session was held according to the remote litigation procedures, where the Defendant attended. However, the Plaintiff's presence was not recorded despite being notified of the session date and its remote format. The Defendant's attorney, (...) was aware of the same. Holder of National Identity No (...) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. In light of this confrontation, the Plaintiff requested that the Department proceed with the case and issue a ruling.

After due deliberation, the following decision was issued:

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

Since the Plaintiff instituted his Case moving to cancel the Defendant's decision regarding RETT and the associated penalty based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

In form, regarding RETT, it evident that the dispute lies in the Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price, which resulted in an outstanding RETT. Article (2) of RETT stipulates "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."

After reviewing the entire case file and its contents, it is clear that the Plaintiff's objection pertains to the Defendant's decision. The Plaintiff stated in their objection statement the following: "The sale amount of the land is SAR 400,000, for the following reasons: 1. At the time of the sale, the land had been under suspension for over two years due to Wadi Hanifa code. Growing impatient with the wait, as I was unable to obtain a building permit or subdivide the land during that time. The suspension was lifted just one day after I sold the land; it was the will of Allah. 2. At that time, the land was not paved and was considered to be in a very undeveloped state, so there was no



demand for purchase. Nature of the land is not level; part of it is elevated by 2.10 meters above the street level and requires at least SAR 40,000 to SAR 50,000 for grading, as it is mountainous. 4. Assuming that the price of the land dropped just one day after the sale, will ZATCA refund the excess amount following the price drop, or what will be the procedure?"

The Plaintiff provided evidence of the payment of SAR 20,000 as RETI, as indicated by the final assessment notice sent by the Defendant. The Plaintiff mentioned in the memorandum of reply: ZATCA determined that the declared value of the property did not reflect its true value and was lower than the market value. As a result, ZATCA adjusted the amount of the tax due based on Article (4) of the Implementing Regulations of RETI". Based on the aforementioned, and since the Defendant did not clarify in the memorandum of reply or in the notice of reassessment results the method used to calculate the property value at a figure higher than the declared value, nor did they provide the necessary supporting documents for the calculation of the difference, or specify the methods and procedures followed in adjusting the sale price, the Department deems it necessary to annul the Defendant's decision.

Regarding the late payment penalty, the Plaintiff is requesting the annulment of the penalty resulting from the Defendant's reassessment of the sale of the Plaintiff's property. Since the First Clause led to the annulment of the Defendant's decision, and the late payment penalty resulted from this, it follows that the same ruling applies to it. Therefore, the Department deems it necessary to annul the Defendant's decision.

Based on the foregoing and in accordance with provisions of Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

- Accept the Plaintiff's claim and annul the Defendant's decision and any penalties resulting therefrom.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-2306)
Delivered in Case No. (R-97174-
2021)

Keywords:

RETT - Late payment penalty - Annulment of the Defendant's decision

Abstract:

The Plaintiff is requesting the annulment of ZATCA's decision regarding RETT and the late payment penalty, amounting to SAR 17,982.55. In form, the dispute between the Plaintiff and the Defendant revolves around RETT and the late payment penalty. On the other hand, regarding RETT, it is evident that the dispute lies in the Defendant's objection to the imposition of RETT resulting from the sale of a property valued at SAR 400,000. The Plaintiff contends that he sold the property for SAR 400,000 and paid SAR 20,000 as RETT, arguing that the property's value was not significantly different from the market value. In contrast, the Defendant's response indicated that the market value of the property is SAR 636,771.42, noting a substantial discrepancy between the sale price reported by the Plaintiff and the market value. The Defendant did not clarify in the memorandum of reply the method used to calculate the property's value at an amount higher than the declared value, nor did they provide the necessary supporting documents for calculating the difference, or the methods and procedures used to adjust the sale price. Therefore, the Department deems it necessary to annul the Defendant's decision on the reassessment of the property and accept the Plaintiff's claim regarding the above-mentioned issue. As for the late payment penalty: The dispute centers on the Plaintiff's objection to the imposition of the late payment penalty. The Plaintiff seeks the annulment of the late payment penalty resulting from the Defendant's reassessment of the Plaintiff's real estate transaction. Since the statutory period for paying the due tax was on or before the date of documenting the transaction, and the Plaintiff did not pay the due tax, and considering that the First Clause led to the annulment of the Defendant's decision, the associated late payment penalty should be treated accordingly. Therefore, the Department deems it necessary to annul the decision to impose the late payment penalty. Consequently: Accept the Plaintiff's claim and annul the Defendant's decision.

Documents:

- Articles (4/A) of [the Implementing Regulations for RETT issued by the Ministerial Decision No. \(712\) dated 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 17/05/1444 AH Corresponding to 11/12/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law



issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 01/03/2022.

The facts of this case are summarized as follows; holder of National ID number (...), presented the statement of Case to ZATCA, requesting the annulment of RETT and the late payment penalty totaling SAR 17,982.55.

Upon presenting the statement to the Defendant, they responded with a memorandum stating the following: First – Concerning the tax due after reassessment: It was determined that the declared sale amount of SAR 400,000 was below the fair market value. Therefore, ZATCA studied and estimated the average sale prices for properties within the same plan as the one in question, resulting in a property value of SAR 636,771.42 based on Paragraph (1) of Article (5) and Article (6) of the Implementing Regulations of RETT. Second -Late Payment Penalty: A penalty was imposed, due to the adjustments made to the tax amount due to ZATCA, based on Paragraph (c) of Article (8) of the Implementing Regulations of RETT. The Defendant's attorney concluded their memorandum by dismissing the Case. End of Answer.

On Sunday, 11/12/2022, the session was held according to remote litigation procedures. Both parties expressed their desire to proceed with the case, with the Plaintiff's attorney (...), participating in the session. Holder of National Identity No (...) Under PoA number (....) as well as the Defendant's attorney Holder of National Identity No (...) In his capacity as ZATCA's Representative by Authorization Letter No. (...),) dated .../05/1444 AH issued by the Deputy Governor for Legal Affairs and Compliance; it was found that the representation by the Plaintiff's attorney was not valid. When questioned about the Plaintiff's claims, the Defendant's attorney responded by maintaining the stance outlined in the memorandum of reply. Accordingly, the Department decided to temporarily dismiss both parties from the remote session for deliberation and decision issuance.

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form

Since the Plaintiff instituted his Case moving to annul RETT and late payment fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

In Merits,

Upon reviewing the case files and considering the responses from both parties after allowing them sufficient time to present their arguments, it is evident that the dispute between the Plaintiff and the Defendant concerns both RETT and late payment penalty. Regarding RETT, the dispute centers on the Plaintiff's objection to the imposition of the tax resulting from the sale of a property valued at SAR 400,000. According to Paragraph (1) of Article (4) of the Implementing Regulations of RETT, which states: "The RETT shall be due on 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 (...)" Article (6) of the same regulations states: "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.” After reviewing the entire case file and its contents, it is clear that the Plaintiff’s objection pertains to the imposition of RETT and stated in their statement that they sold the property for SAR 400,000 and paid RETT of SAR 20,000, arguing that the property’s value was not significantly different from the market value. In contrast, the Defendant’s response indicated that the market value of the property is SAR 636,771.42, highlighting a substantial discrepancy between the sale price reported by the Plaintiff and the market value. The Defendant did not clarify in memorandum of reply the method used to calculate the property’s value at an amount higher than the declared value, nor did they provide the necessary supporting documents for calculating the difference. Additionally, the methods and procedures for adjusting the sale price were not explained. Therefore, the Department deems it necessary to annul the Defendant’s decision regarding the reassessment of the property and to accept Plaintiff’s claim as mentioned above.

Regarding late payment penalty: The dispute centers on Plaintiff’s objection to the imposition of the late payment penalty based on Paragraph (C) of Article (8) of the Implementing Regulations of RETT, which states: “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.”

After reviewing the entire case file and its contents, the Plaintiff’s request is to annul the late payment penalty resulting from the Defendant’s reassessment of the Plaintiff’s real estate transaction. Since the statutory period for paying the due tax was on or before the date of documenting the transaction, according to Paragraph (A) of Article (4) of the Implementing Regulations of RETT, and the Plaintiff did not pay the due tax, and considering that the First Clause led to the annulment of the Defendant’s decision, the associated late payment penalty should be treated accordingly. Therefore, the Department deems it necessary to annul the decision to impose the late payment penalty.

Based on the foregoing and in accordance with provisions of Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

- Accept the Plaintiff’s claim and annul the Defendant’s decision.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Tax Dispute and Violation Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under Article 33.2 of Tax Dispute and Violation Committee Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-65774)
Delivered in Case No. (R-
97370-2022)

Keywords:

RETT - Late Payment Penalty - Reassessment of the Real Estate Transaction - Calculation of Property Value Higher than Declared Value - Utilizing the average selling price of the plan does not accurately reflect the market value of the property-Acceptance of the Plaintiff's Claim

Abstract:

The Plaintiff objected to ZATCA's decision regarding RETT amounting to SAR (23,569.98) as well as the resulting late payment penalty, requesting the annulment of the Defendant's decision. -ZATCA argued that: Reassessment of the property transaction resulted upon examining the transaction conducted by the Plaintiff. Department found, with respect to RETT, that the Defendant failed to clarify in their memorandum of reply the methodology used to calculate the property value at a higher amount than that originally declared. Additionally, the necessary supporting documents for calculating the difference were not provided, and the methods and procedures for adjusting the sale price were not explained. The Defendant mentioned that they studied and estimated the average sale prices for the same plan where the disputed property is located, reassessed the property in question, and recalculated the due tax. However, using the average sale prices for the plan does not accurately represent the market value of the property. Calculating the average involves considering both high and low prices of properties within the same plan, which may result in an average price per square meter that is higher than the actual market price of the property in dispute. As for the late payment penalty, since the First Clause resulted in the annulment of the Defendant's decision, the penalty, being a consequence thereof, shall likewise be annulled. Department ruled to Accept the Plaintiff's claim and annul the Defendant's decision – the decision is considered final and enforceable.

Documents:

- Articles (1/6,2) of [the Implementing Regulations for RETT issued pursuant to the Ministerial Decision No. \(712\) dated 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 12/12/2022, First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH.



Facts of the case are summarized that, holder of National ID number (.....), filed an objection to the imposition of RETT amounting to SAR (23,569.98) as well as the resulting late payment penalty, requesting the annulment of the Defendant's decision.

The Defendant responded with a memorandum of reply, stating the following: "ZATCA reviewed the real estate transaction conducted by Plaintiff in the Case, in accordance with Paragraph (1) of Article (6) of the Implementing Regulations of RETT, which states: "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. As a result of this review, reassessment of the real estate transaction was carried out.

In accordance with ZATCA's power to estimate the fair market value of the property as granted by Paragraph (2) of Article (6) of the Implementing Regulations of RETT, which states: "For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to: 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." ZATCA found that the sale value did not represent the actual market value of the property. Consequently, the property value was estimated based on the fair market value using data from the Ministry of Justice for the same plan and neighborhood, leading to the imposition of the due RETT.

ZATCA, in relation to the penalty, informs the esteemed committee that, based on Paragraph (C) of Article (8) of the Implementing Regulations of RETT, which states: "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." Accordingly, a late payment penalty was imposed on the Plaintiff. End of Answer.

The Defendant responded with a memorandum of reply, stating the following: First: Invalidity of the real estate reassessment decision: The Defendant's memorandum states that the decision was made to reassess value of the real estate transaction because it was below its fair value. We respond to this as follows:

1. That the sale of my client's property occurred a full year before the reassessment date, and at that time, the property was an undeveloped land. Therefore, we are unaware of the property's nature regarding construction or any economic changes in the area that might have affected the property's value after reassessment.
2. My client, a resident of Medina, lacks real estate expertise in Riyadh. The property in question was listed with a specialized real estate agency, which informed my client that this was the fair market value of the property.
3. There is no connection between my client and the buyer ..., nor between my client and the real estate office. My client had no interest in undervaluing the transaction, contrary to its market value, especially since the contract between the parties stipulates that the buyer will bear RETT.
4. RETT was paid in accordance with Article (2) of the Implementing Regulations of RETT, which states: "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. "

Second: Invalidity of late payment penalty decision: The Defendant's memorandum states that a late payment penalty was imposed immediately after reassessment, without prior notification of the reassessment or granting a grace period for payment before imposing the penalty. Therefore, the decision to impose the late payment penalty from the outset was contrary to the Law. According to Article (9) of the Implementing Regulations of RETT, which states: "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 ...". My client provided (attached to the case) the sale contract, which is documented by a real estate office and includes the value of the real estate transaction. Additionally, my client attached to the case checks



corresponding to the transaction value, which represent the actual value of the transaction. My client did not receive any other amounts from the buyer. Third: Requests: In light of the above, and since the decision to reassess the real estate transaction and impose the penalty was contrary to the Law, and given that my client did not evade paying the tax or conceal any accurate information regarding the real estate transaction, we respectfully request the annulment of ZATCA's decision and the associated penalties in this case." This concludes our response.

On Monday, 12/12/2022, the session was held according to remote litigation procedures. Both parties expressed their desire to proceed with the case, with (...), participating in the session. Holder of National Identity No (...) In his capacity as the Plaintiff's attorney under PoA number (.....) as well as the Defendant's attorney Holder of National Identity No (...) also attended the session, in his capacity as ZATCA representative, by virtue of authorization No. (.....) dated ... issued by the Deputy Governor for Legal Affairs and Compliance. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Tax Committees, affirming contents of the memorandum of reply. The Plaintiff's attorney submitted a supplementary memorandum, where the Defendant's attorney, upon review, stated that the tax evasion mentioned in the memorandum pertains to a different matter and that tax evasion has its own specific penalties. Meanwhile, undervaluing the real estate transaction requires ZATCA to impose a penalty according to provisions of Paragraphs (B) and (C) of Article 8 of the Implementing Regulations of RETT. The Plaintiff's attorney commented that a late payment penalty should only be imposed if there is an actual delay in payment, while the Defendant's attorney responded by clarifying that "delay" refers to the delay beyond the due date. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to temporarily dismiss both parties from the remote session for deliberation and decision issuance.

Grounds:

After reviewing the Case documents, and upon careful examination, and in light of Value Added Tax Law issued by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and its Implementing Regulations issued by ZATCA's BOD Decision No. (3839) dated 14/12/1438 AH as amended, Rules of Procedure for Committees for Adjudication of Tax Violations and Disputes issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision regarding RETT and the associated penalty based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: As for RETT, the dispute centers on the Plaintiff's objection to the Defendant's imposition of RETT amounting to SAR 23,569.98. According to Paragraph (1) of Article (6) of the Implementing Regulations of RETT, which states: "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. Paragraph (2) of Article (6) of the Implementing Regulations of RETT states: "For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to: 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."

After reviewing the entire case file and its contents, it is clear that the Plaintiff objects to the imposition of RETT. The Plaintiff stated in his statement that he sold the land for SAR 200,000 through a real estate office (...), and asserted that there is no relationship between him and the buyer. He confirmed that there was no benefit to him or the real estate office from undervaluing



the property, noting that the office earns a 2.5% commission on the sale. The Plaintiff emphasized that the real estate office, being specialized in market prices at the time of the sale, set the selling price based on its expertise, given that he resides in Medina and the land is located in Riyadh. In response, the Defendant clarified that it was determined that the sale value did not reflect the actual market value of the property. Consequently, the property was reassessed based on its fair market value, using data from the Ministry of Justice for the same plot and neighborhood, which led to the imposition of the due RETT.

In light of the above, since the Defendant failed to clarify in their memorandum of reply the methodology used to calculate the property value at a higher amount than that originally declared. Additionally, the necessary supporting documents for calculating the difference were not provided, and the methods and procedures for adjusting the sale price were not explained. The Defendant mentioned that they studied and estimated the average sale prices for the same plan where the disputed property is located, reassessed the property in question, and recalculated the due tax. However, using the average sale prices for the plan does not accurately represent the market value of the property. Calculating the average involves considering both high and low prices of properties within the same plan, which may result in an average price per square meter that is higher than the actual market price of the property in dispute. Therefore, Department decided to annul the Defendant's decision.

It is found that, regarding late payment penalty, the dispute appears to be regarding the Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price, which resulted in a delay penalty for the tax amount due. Since the First Clause led to the annulment of the Defendant's decision regarding the reassessment, and since the delay penalty resulted from that decision, the related penalty should be nullified as well. Therefore, Department decides to annul the Defendant's decision on the delay penalty.

Based on the foregoing and pursuant to the provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Rules of Procedures, the Department, after deliberation, unanimously decided:

Decision:

- To accept the Plaintiff case and cancel the Defendant's decision subject of the case.

This decision was issued in presence of both parties. The date of entry of the decision into the electronic system of General Secretariat of the Zakat, Tax, and Customs Committees shall be considered the date of service of the decision. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, the decision shall become final and enforceable after expiration hereof.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(The judgment has become final for expiration of the period prescribed for challenging it based on Article 33.2 of the Rules of Procedure for Zakat, Tax, and Customs Committees).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-66295)
Delivered in Case No. (R-2022-
98162)

Keywords:

Real Estate Transaction Tax – Reassessment– Imposition of Late Payment Fine– Donee Legally Permitted to Receive a Gift – Cancellation of the Defendant’s Decision.

Abstract:

The Plaintiff objects to ZATCA’s decision regarding the imposition of a real estate transaction tax based on a reassessment of the property, and the imposition of a late payment fine. The Plaintiff requests the cancellation of the Defendant’s decision. Regarding the real estate transaction tax on the property given to the Plaintiff’s son, the Department has found that the donee, according to the Plaintiff’s claim, is someone who is legally permitted to receive a gift, as per the law, being the son of the donor. Considering the difficulty of applying the law when a property is gifted without a specific monetary value, and since there is no benefit to the Plaintiff from ZATCA’s decision, as the Plaintiff could consider the entire transaction as a gift to his son, therefore the Department has inferred that the Plaintiff acted in good faith. With regard to the late payment fine, since the Department has already ruled in favor of the Plaintiff, regarding the imposition of the disputed real estate transaction tax, leading to the cancellation of the Defendant’s decision, it follows that the resulting occurrence shall take the same effect. The Department ruled to accept the Plaintiff’s claim and cancel the Defendant’s decision, including any resulting fines. The decision shall be deemed final and enforceable.

Documents:

- Article 43 of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 19/12/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH convened to consider the above-mentioned case.

Facts of the case are summed up that Mr., ID No. (...), under POA No. (...), in his capacity as Attorney of the Plaintiff,, ID No. (...), submitted an objection against the Defendant’s decision regarding the imposition of real estate transaction tax resulting from a reassessment of the property, and the imposition of a late payment fine. The Plaintiff is requesting the cancellation of the Defendant’s decision.



The Defendant submitted a Reply, stating: We inform the Esteemed Committee that after ZATCA reassessed the value of the property subject of the case, located inDistrict, In Jeddah, plot no. (...), it was found that the declared sale price of (SAR 1,000,000) was less than the fair market value. Upon reviewing the data recorded at the Ministry of Justice for the same plot where the property is located, it was found that the lowest price per square meter was (SAR 2,953), and the highest price per square meter was (SAR 5,888). However, the Plaintiff sold the property at a price of (SAR 1,388.89) per square meter. This clearly indicates a significant discrepancy between the declared sale price and the actual value of the property. Consequently, ZATCA conducted a study and estimated the average selling prices for properties in the same plot where the property subject of the case is located, and reassessed the property value to (SAR 3,182,760). As a result, the due tax was recalculated. This is based on Article (5.1) of the Implementing Regulations for Real Estate Transactions Tax, which states: "The tax shall be due on the date of the transaction based on the value agreed upon between the parties or the value of the property, provided that it is not less than the fair market value at the date of the transaction...". And, Article (6) of the same Regulations, which states: "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 the value of the properties and transactions of undetermined value, or those for which it is found that the value stated in the transaction contract is less than the fair market value, or for which incorrect information or data is provided". With regard to the Plaintiff's claim that the property was transferred to his son, and therefore is not subject to tax, as a first-degree gift is exempt from tax, ZATCA clarifies that the transfer of ownership of the property was for a monetary consideration, which means that the conditions stipulated in Article (3) of the Implementing Regulations of the Real Estate Transaction Tax are not met. Regarding the late payment fine: Based on the foregoing, and in light of the reassessment as well as the resulting adjustment to the tax amount due to ZATCA, a late payment fine was imposed pursuant to Article (8.C) of the Implementing Regulations of the Real Estate Transaction Tax, which states: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid". End of Reply.

Then, the Defendant added a Rejoinder stating the following: In establishing its defense, ZATCA wishes to refer to the definition of market value, as stipulated in Article (30.1) of the International Valuation Standards (IVS), which explains the international valuation principles and standards for market value as follows: "Market value is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.". Defining the "estimated amount", paragraph (a) of the same Article states: "The estimated amount" refers to a price expressed in terms of money payable for the asset in an arm's length market transaction. Market value is the most probable price reasonably obtainable in the market on the valuation date in keeping with the market value definition. It is the best price reasonably obtainable by the seller and the most advantageous price reasonably obtainable by the buyer. This estimate specifically excludes an estimated price inflated or deflated by special terms or circumstances, such as: atypical financing, sale and leaseback arrangements, special considerations or concessions granted by anyone associated with the sale, or any element of value available only to a specific owner or purchaser". As clarified in the previous provisions, it is evident that the market value is determined based on the best price that a seller can obtain, excluding any abnormal values. We would like to inform your Excellency that ZATCA relies on the data provided by the Ministry of Justice and excludes any abnormal amounts, whether higher or lower than the average value of properties, thus following IVS. ZATCA wishes to clarify to the esteemed department its procedure regarding reassessment of properties. ZATCA relies on an international valuation method as well as its standards approved by the Saudi Authority for Accredited Valuers (TAQEEM), known as the market approach. This market approach, which is



followed by ZATCA in assessment, is based on comparing the asset being assessed with similar assets, as stipulated in Article (20.1) of the IVS (Market Approach), which states: "The market approach provides an indication of value by comparing the asset with identical or comparable (that is similar) assets for which price information is available". It is evident to Your Excellency that ZATCA follows the same procedure as TAQEEM in its assessment processes. It compares the asset being assessed with similar properties in the same plot, excluding any abnormal values that do not reflect reality, whether they are higher or lower than the average market values in the same plot. Having clarified to Your Excellency the procedure followed by ZATCA and its compliance with IVS, ZATCA would like to point out that the Implementing Regulations of the Real Estate Transaction Tax grants ZATCA the power to verify the accuracy of the tax calculation and to estimate the value of properties if no value is determined, or if the value is less than the market value, as stated in Article (6.2) which states: "For the purpose of verifying the accuracy of the calculation of the due tax, ZATCA has the right to do the following: 2- Estimate the value of the properties and transactions of undetermined value, or those for which it is found that the value stated in the transaction contract is less than the fair market value, or for which incorrect information or data is provided". End of Reply.

On Monday, 19/12/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Upon calling on both Parties to the case, Mr., ID No (...) was present in his capacity as Attorney of Plaintiff under POA No. (...). The Defendant's Representative ID No (...) also attended the session, in his capacity as ZATCA Representative, by virtue of Authorization No. (.....) dated ... issued by the Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff about the case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked the Defendant's Representative about his reply, he maintained his answers contained in his Reply. Accordingly, the Department decided to temporarily dismiss both parties from the remote session for deliberation and decision issuance.

Grounds:

Upon reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and related laws and regulations, the Department has decided as follows:

In Form: Since the Plaintiff instituted his case moving to cancel the Defendant's decision regarding the imposition of real estate transaction tax resulting from the reassessment of the property, and the imposition of a late payment fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Regarding the real estate transaction tax, it is clear that the dispute lies in the Plaintiff's objection to the Defendant's imposition of the real estate transaction tax, based on the argument that the declared sale price of (SAR 1,000,000) is less than the fair market value. After referring to the data recorded with the Ministry of Justice for the same plot where the property is located, it was found that the lowest price per square meter was (SAR 2,953), and the highest price per square meter was (SAR 5,888), however, the Plaintiff sold at a price of (SAR 1,388.89) per square meter. The Plaintiff has maintained that this was a gift to his son, and that the donee - according to the Plaintiff's claim - is one to whom a gift can be legally given, according to the provisions of the law, being the son of the donor. The Department, having considered the difficulty of applying the law



to a transfer of ownership in the case of a gift without specifying a specific amount as the price of the property, and considering that the Plaintiff has no interest in ZATCA's decision, as he could have considered the entire transaction as a gift, given that the donee is his son, infers from this that the Plaintiff acted in good faith. Therefore, the Department concludes that ZATCA's decision to impose the real estate transaction tax is invalid and accepts the Plaintiff's claim.

Regarding the late payment fine, given that the Department has already ruled in favor of the Plaintiff, concerning the imposition of the disputed real estate transaction tax leading to the cancellation of the Defendant's decision, it follows that the resulting occurrence shall take the same effect. The Department therefore concludes by accepting the Plaintiff's claim, in accordance with Article (43) of the Value Added Tax Law

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committees Procedures, the Department, after deliberation, unanimously decided:

Decision:

- To Accept the Plaintiff's claim and cancel the Defendant's decision as well as the resulting fines. This decision was issued in the presence of both litigants. The Department has set a period of (30) days for the receipt of a copy of the judgment, and the Department may extend the delivery period for another (30) days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Zakat, Tax, and Customs Committees Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-91020)
Delivered in Case No. (R-2022-91020)

Keywords:

Real Estate Reassessment- Real Estate Transaction Tax - Late Payment - Market Value of the Property.

Abstract:

The Plaintiff is requesting the cancellation of ZATCA's decision regarding the imposition of real estate transaction tax resulting from the reassessment of the property, and the imposition of a late payment fine. ZATCA responded by stating that ZATCA had examined the transaction carried out by the Plaintiff, which resulted in a reassessment of the real estate transaction based on the fair market value of the property, and consequently, the calculation of the real estate transaction tax for the Plaintiff on the transaction subject of the case. After it became clear to ZATCA that the value of the property did not represent its actual market value, ZATCA estimated the value of the property based on the fair market value, and consequently imposed the real estate transaction tax at the rate specified by the law. As for ZATCA imposing a late payment fine on the transaction subject of the case, the Plaintiff did not pay the tax for the months following the month in which the tax was due given the difference between the declared and due tax amounts. With regard to the real estate transaction tax, the Department has found the following: It is evident that the Plaintiff is objecting to the Defendant's decision. The Plaintiff stated in the statement of claim that a real estate gift was sold for (SAR 100,000) and that he was unaware of the plot's prices due to the absence of real estate offices and services. He added that he is not a resident of Jeddah. In its Reply, the Defendant responded in accordance with the powers granted to it by law to reassess the value of properties, and since it became clear to the Defendant that the declared value of the property did not reflect its actual value and was considered less than the market value, ZATCA consequently adjusted the amount of the due tax. The Defendant did not clarify the mechanism for calculating the value of the property at a value higher than the declared value, nor did it provide the necessary evidentiary documents on the basis of which the difference was calculated. With regard to the late payment fine, it is clear that the Department's opinion in the First Clause has led to the cancellation of the Defendant's decision in its proceedings, and since the late payment fine resulted from that, related matters shall have the same force and effect. - The Department ruled to: accept the Plaintiff claim and cancel the Defendant's decision.

Documents:

- Articles (2, 4) of [Implementing Regulations of the Real Estate Transaction Tax issued pursuant to Ministerial Resolution No. \(712\) dated 15/02/1442 AH.](#)



Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and upon his family and all his companions; now therefore:

On Tuesday, 27/12/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Decree No. (13957) dated 26/02/1444 AH, convened to consider the case.

The facts of the case are summed up that Mr. ID No. (.....), submitted an objection against the Defendant's decision regarding the imposition of real estate transaction tax resulting from a reassessment of the property, and the imposition of a late payment fine and requested the cancellation of the Defendant's decision.

The Defendant responded with a memorandum of reply, stating the following: 1. Decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. ZATCA examined transaction carried out by Plaintiff subject matter of the case in accordance with Article (6) of the Implementing Regulations of Real Estate Transactions Tax, which stipulates that "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" As a result of this examination, the real estate transaction was reassessed based on the fair market value of the property, and consequently, the real estate transaction tax was calculated for the Plaintiff for the transaction subject of the case. According to ZATCA's power to estimate the fair market value of the property, granted to it by the provisions of Article (6.2) of the Implementing Regulations of the Real Estate Transaction Tax, which states that "For the purpose of verifying that the due tax is calculated correctly, ZATCA shall be entitled to: 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" After it became clear to ZATCA that the value of the property did not represent its actual market value, ZATCA estimated the value of the property based on the fair market value, and consequently imposed the real estate transaction tax at the prescribed rate. Based on the foregoing, ZATCA maintains the validity of its action subject of the case. With regard to ZATCA imposing a late payment fine on the transaction subject of the case, pursuant to Article (8.C) of the Implementing Regulations of the Real Estate Transaction Tax which states: "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....". Since the Plaintiff did not pay the tax for the months following the month in which the tax was due because of the difference between the declared and due tax amounts, the late payment fine was imposed. End of Reply.

The Defendant submitted a Rejoinder stating the following: In establishing its defense, ZATCA wishes to refer to the definition of market value, as stipulated in Article (30.1) of the International Valuation Standards (IVS), which explains the international valuation principles and standards for market value as follows: "Market value is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.". Defining the "estimated amount", paragraph (a) of the same Article states: (A) "The estimated amount" refers to a price expressed in terms of money payable for the asset in an arm's length market transaction. Market value is the most probable price reasonably obtainable in the market on the valuation date in keeping with the market value definition. It is the best price reasonably obtainable by the seller and the most advantageous price reasonably obtainable by the buyer. This estimate specifically excludes an estimated price inflated or deflated by special terms or circumstances, such as: atypical financing, sale and leaseback arrangements, special considerations or concessions granted by anyone associated with the sale, or



any element of value available only to a specific owner or purchaser". As clarified in the previous provisions, it is evident that the market value is determined based on the best price that a seller can obtain, excluding any abnormal values. We would like to inform your Excellency that ZATCA relies on the data provided by the Ministry of Justice and excludes any abnormal amounts, whether higher or lower than the average value of properties, thus following IVS. ZATCA wishes to clarify to the esteemed department its procedure regarding reassessment of properties. ZATCA relies on an international valuation method as well as its standards approved by the Saudi Authority for Accredited Valuers (TAQEEM), known as the market approach. This market approach, which is followed by ZATCA in assessment, is based on comparing the asset being assessed with similar assets, as stipulated in Article (20.1) of the IVS (Market Approach), which states: "The market approach provides an indication of value by comparing the asset with identical or comparable (that is similar) assets for which price information is available". It is evident to Your Excellency that ZATCA follows the same procedure as TAQEEM in its assessment processes. It compares the asset being assessed with similar properties in the same plot, excluding any abnormal values that do not reflect reality, whether they are higher or lower than the average market values in the same plot. Having clarified to Your Excellency the procedure followed by ZATCA and its compliance with IVS, ZATCA would like to point out that the Implementing Regulations of the Real Estate Transaction Tax grants ZATCA the power to verify the accuracy of the tax calculation and to estimate the value of properties if no value is determined, or if the value is less than the market value, as stated in Article (6.2) which states: "For the purpose of verifying the accuracy of the calculation of the due tax, ZATCA has the right to do the following: 2- Estimate the value of the properties and transactions of undetermined value, or those for which it is found that the value stated in the transaction contract is less than the fair market value, or for which incorrect information or data is provided". End of Reply.

On Tuesday, 27/12/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Both parties wished to proceed with the case. The Plaintiff, ID No. (...), appeared on behalf of himself, and the Defendant's Representative, ID No. (...), appeared in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../ 05/ 1444 AH, issued by Deputy Governor for Legal Affairs and Compliance. Having asked the Plaintiff about the case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked Defendant's Representative about his reply, he maintained his answers contained in his Reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. As such, the Department decided to temporarily log both parties out of the virtual session for deliberation and issuance of judgment. After deliberation, the following judgment was issued:

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations, the Department has decided as follows:

In form, since the Plaintiff seeks through its claim to cancel the Defendant's decision regarding the imposition of real estate transaction tax resulting from the reassessment of the property and the imposition of a late payment fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations pursuant to Royal Decree No. (26040)



dated 21/04/1441 AH, and since the case was filed by a person with capacity, and within the prescribed statutory period, the Department, therefore, must accept the case in terms of form.

On merits, regarding the real estate transaction tax, it is clear that the dispute lies in the Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price; which resulted in a higher real estate transaction tax due. Article (2) of the Real Estate Transaction Tax Implementing Regulations stipulates as follows: "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".

After reviewing the entire case file and its contents, it is clear that the Plaintiff is objecting to the Defendant's decision. In the statement of claim, the Plaintiff stated that a real estate gift was sold for (SAR 100,000) and that he was unaware of the plot's prices due to the absence of real estate offices and services. He added that he is not a resident of Jeddah. In its Reply, the Defendant responded in accordance with the powers granted thereto by the law to reassess the value of properties, and since it became clear to the Defendant that the declared value of the property did not reflect its actual value and was considered less than the market value, ZATCA consequently adjusted the amount of the due tax pursuant to Article (4) of the Real Estate Transaction Tax Implementing Regulations. The Plaintiff's response to the Defendant's Reply is as stated in the Plaintiff's statement of claim.

Based on the foregoing, and since the Defendant did not clarify the mechanism for calculating the value of the property at a value higher than the declared value, nor did the Defendant provide the necessary evidentiary documents on the basis of which the difference was calculated, the Department concludes to cancel the Defendant's decision.

Regarding the late payment fine, it is clear that the dispute lies in the Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price; which resulted in a late payment fine for the tax due.

After reviewing the entire case file and its contents, the Plaintiff's claim is to cancel the late payment fine resulting from the Defendant's reassessment of the Plaintiff's property sale. Given that the Department's opinion in the First Clause led to the cancellation of the Defendant's decision to conduct the reassessment, and since the late payment fine resulted from that decision, the related matter shall have the same force and effect. Therefore, the Department concludes to cancel the Defendant's decision.

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committees Procedures, the Department, after deliberation, unanimously decided:

Decision:

- To accept the Plaintiff's case and cancel the Defendant's decision subject matter of the case, as well as any fines resulting thereof.

This decision has been issued in the presence of both parties in accordance with the provisions of Article 21 of the Rules of Procedure for Tax Dispute and Violation Committees. The Department has set a period of 30 days for the receipt of a copy of the decision. The Department may extend the period for an additional 30 days as it deems appropriate. The decision shall be final and enforceable in accordance with the provisions of Article 42 of the Rules of Procedure for Tax Dispute and Violation Committees.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Judgment has become final by expiration of objection period under article 33.2 of Zakat, Tax, and Customs Committees Procedures.



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2022-96617)
Delivered in Case No. (R-2022-
96617)

Keywords:

Due Real Estate Transaction Tax – Reassessment of Property – Imposition of a Late Payment Fine – Failure to Provide Document to Dispute Actual Sale Price – Assessed Value of Property does not Reflect its Actual Value – Adjustment of the Due Tax Amount – Failure to Clarify Mechanism for Calculating Property Value at Higher Value than the Declared Value – Acceptance of the Plaintiff's Claim.

Abstract:

The Plaintiff is objecting to ZATCA's decision regarding the imposition of real estate transaction tax resulting from the reassessment of the property, and the imposition of a late payment fine. The Plaintiff requests the cancellation of the Defendant's decision. The dispute lies in the Plaintiff's objection to the Defendant's decision to reassess the property at a higher value than the sale price, resulting in a due real estate transaction tax. The Plaintiff pointed out that ZATCA did not take into account that the sale took place after the COVID-19 crisis and the subsequent financial crisis. Additionally, ZATCA did not provide any documents to contradict the actual sale price. ZATCA argued that, according to its statutory powers, it has the authority to reassess properties, and since it has become clear to ZATCA that the assessed value of the property does not reflect its actual value and is considered less than the market value, ZATCA has adjusted the amount of tax due. The Department found, regarding the real estate transaction tax, that the Defendant did not clarify the method of calculating the property value at a higher value than the declared value, nor did the Defendant provide the necessary supporting documents on the basis of which the difference was calculated. Since it was proven to the Department in the previous Clause the cancellation of the Defendant's decision, and since it resulted in the late payment fine, any related matter shall have the same ruling and effect. Department ruled to Accept the Plaintiff's claim and annul the Defendant's decision and any penalties resulting therefrom – the decision is considered final and enforceable.

Documents:

- Articles (2) and (4) of [Implementing Regulations of the Real Estate Transaction Tax issued pursuant to Ministerial Resolution No. \(712\) dated 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions. ◇



On Tuesday, 27/12/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Decree No. (13957) dated 26/02/1444 AH. The facts of the case are summed up that Mr. ID No. (...), submitted an objection against the Defendant's decision regarding the imposition of real estate transaction tax resulting from a reassessment of the property, and the imposition of a late payment fine and requested the cancellation of the Defendant's decision.

The Defendant submitted a Reply, stating: ZATCA examined the transaction subject of the case carried out by the Plaintiff, in accordance with Article (6.1) of the Implementing Regulations of the Real Estate Transaction Tax, which states that: "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" As a result of this examination, the real estate transaction was reassessed, according to ZATCA's power to estimate the fair market value of the property, granted thereto by the provisions of Article (6.2) of the Implementing Regulations of the Real Estate Transaction Tax, which states that: "For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to: 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" Furthermore, it was determined that the sale value does not represent the actual market value of the property, ZATCA has therefore valued the property based on its market value, relying on the Ministry of Justice data for the same plot, and consequently imposed the real estate transaction tax due at the rate specified by the law. Regarding the late payment fine: Regarding the fine, ZATCA informs the esteemed committee that, based on Article (8.C) of the Implementing Regulations of the Real Estate Transaction Tax, which stipulates: "C. A person who does not pay the RE'TT due within the period specified by law shall be liable to a fine of (5%) of the value of the unpaid RE'TT 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". As such, a late payment fine was imposed on the Plaintiff. End of Reply.

The Plaintiff submitted a Replication, in which he stated as follows: To avoid repetition and considering the facts presented in the Plaintiff's statement of claim, which include multiple pieces of evidence indicating that the sale price of the property was one hundred and thirty thousand Saudi Riyals (SAR 130,000), and that the Plaintiff does not object to ZATCA's right to reassess, but appeals to the Committee on the grounds that ZATCA did not take into account the Plaintiff's humanitarian situation. He claims that he would not have sold at that price had he not been in dire need, and that his financial situation was severely impacted during the COVID-19 pandemic, leading to increased liabilities that forced him to sell at the available price. If the Plaintiff were to pay the amount calculated after the reassessment, he would be paying a tax on an amount he did not receive, which is contradicts what is stated in the Holy Quran in Surah Yunus, verse 35: "Most of them follow nothing but assumption. Indeed, assumption does not avail against the truth at all. Indeed, Allah is All-Knowing of what they do" This means that an estimated value cannot replace actual facts. How, then, can ZATCA justify imposing a real estate transaction tax based on a higher estimated value than the actual sale price, thus placing an additional financial burden on the Plaintiff? .

The Defendant submitted a Rejoinder stating the following: In establishing its defense, ZATCA wishes to refer to the definition of market value, as stipulated in Article (30.1) of the International Valuation Standards (IVS), which explains the international valuation principles and standards for market value as follows: "Market value is the estimated amount for which an asset or liability should exchange on the valuation date, between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and, without compulsion.". Defining the "estimated amount", paragraph (a) of the same Article states: "The estimated amount" refers to a price expressed in terms of money payable for



the asset in an arm's length market transaction. Market value is the most probable price reasonably obtainable in the market on the valuation date in keeping with the market value definition. It is the best price reasonably obtainable by the seller and the most advantageous price reasonably obtainable by the buyer. This estimate specifically excludes an estimated price inflated or deflated by special terms or circumstances, such as: atypical financing, sale and leaseback arrangements, special considerations or concessions granted by anyone associated with the sale, or any element of value available only to a specific owner or purchaser" As clarified in the previous provisions, it is evident that the market value is determined based on the best price that a seller can obtain, excluding any abnormal values. We would like to inform your Excellency that ZATCA relies on the data provided by the Ministry of Justice and excludes any abnormal amounts, whether higher or lower than the average value of properties, thus following IVS. ZATCA wishes to clarify to the esteemed department its procedure regarding reassessment of properties. ZATCA relies on an international valuation method as well as its standards approved by the Saudi Authority for Accredited Valuers (TAQEEM), known as the market approach. This market approach, which is followed by ZATCA in assessment, is based on comparing the asset being assessed with similar assets, as stipulated in Article (20.1) of the IVS (Market Approach), which states: "The market approach provides an indication of value by comparing the asset with identical or comparable (that is similar) assets for which price information is available". It is evident to Your Excellency that follows the same procedure as TAQEEM in its assessment processes. It compares the asset being assessed with similar properties in the same plot, excluding any abnormal values that do not reflect reality, whether they are higher or lower than the average market values in the same plot. Having clarified to Your Excellency the procedure followed by ZATCA and its compliance with IVS, ZATCA would like to point out that the Implementing Regulations of the Real Estate Transaction Tax grants ZATCA the power to verify the accuracy of the tax calculation and to estimate the value of properties if no value is determined, or if the value is less than the market value, as stated in Article 6.2 which states: "For the purpose of verifying the accuracy of the calculation of the due tax, ZATCA has the right to do the following: 2- Estimate the value of the properties and transactions of undetermined value, or those for which it is found that the value stated in the transaction contract is less than the fair market value, or for which incorrect information or data is provided" End of Reply.

On Tuesday, 27/12/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Both parties wished to proceed with the case. The Plaintiff,, ID No...., appeared on behalf of himself, and the Defendant's Representative, ID No. (...), also attended the session, in his capacity as ZATCA Representative, by virtue of Authorization No. (.....) dated .../ 05/ 1444 AH, issued by Deputy Governor for Legal Affairs and Compliance. Having asked the Plaintiff about the case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked the Defendant's Representative about his reply to Plaintiff claims, he maintained his answers contained in his Reply. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to temporarily dismiss both parties from the remote session for deliberation and decision issuance.

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, and the Common VAT Agreement of GCC States, and related laws and regulations. The Department has decided as follows:



In Form: Since the Plaintiff instituted his case moving to cancel the Defendant's decision regarding the imposition of real estate transaction tax resulting from the reassessment of the property, and the imposition of a late payment fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Regarding the real estate transaction tax, it is clear that the dispute lies in Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price; which resulted in a higher real estate transaction tax due. Article (2) of the Real Estate Transaction Tax Implementing Regulations stipulates as follows: "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."

Upon reviewing the entire case file and its contents, it is clear that the Plaintiff is objecting to the Defendant's decision. The Plaintiff stated in the statement of claim that the land was sold for (SAR 130,000) and that ZATCA assessed the sale value one year after the sale. The Plaintiff further indicated that ZATCA did not take into account the fact that the sale took place after the COVID-19 crisis and the resulting financial crisis. Additionally, the Plaintiff argued that ZATCA did not provide any document to contradict the actual sale price. In its Reply, the Defendant replied that, in accordance with the powers granted to it by law to reassess the value of properties, and upon finding that the declared value of the property did not reflect its actual value and was considered below the market value, ZATCA amended the amount of tax due, relying on Article (4) of the Implementing Regulations of the Real Estate Transaction Tax. The Plaintiff maintained the Plaintiff's objection in responding to the Defendant's Reply, along with providing additional clarifications. The Plaintiff attached the deed and the check received from the buyer for the amount of (SAR 130,000).

Based on the foregoing, and since the Defendant did not clarify the mechanism for calculating the value of the property at a value higher than the declared value, nor did the Defendant provide the necessary supporting documents on the basis of which the difference was calculated, the Department concludes to cancel the Defendant's decision.

Regarding the late payment fine, it is clear that the dispute lies in the Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price; which resulted in a late payment fine for the tax due.

After reviewing the entire case file and its contents, the Plaintiff's claim is to cancel the late payment fine resulting from the Defendant's reassessment of the Plaintiff's property sale. Given that the Department's opinion in the First Clause led to the cancellation of the Defendant's decision to conduct the reassessment, and since the late payment fine resulted from that decision, the related matter shall have the same force and effect. Therefore, the Department concludes to cancel the Defendant's decision.

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committees Procedures, the Department, after deliberation, unanimously decided:

Decision:

- To accept the Plaintiff's claim and cancel the Defendant's decision and any penalties resulting therefrom.



This decision has been issued in the presence of both parties, in accordance with the provisions of Article 21 of the Rules of Procedure for Tax Dispute and Violation Committees. The Department has set a period of 30 days for the receipt of a copy of the decision. The Department may extend the period for an additional 30 days as it deems appropriate. The decision shall be final and enforceable in accordance with the provisions of Article 42 of the Rules of Procedure for Tax Dispute and Violation Committees.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Zakat, Tax, and Customs Committees Procedures).



**Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam**

**Decision No. (VD-2022-97372)
Delivered in Case No. (R-2022-
97372)**

Keywords:

Real Estate Transaction Tax – Late Payment Fine– Sale Value Does Not Represent Actual Market Value of Property – Estimating Property Value Based on Fair Market Value – Using Average Sales Prices in the Area Does Not Represent an Accurate Indicator of Market Value of Property.

Abstract:

The Plaintiff is objecting to ZATCA's decision regarding the imposition of real estate transaction tax and the resulting late payment fine due to the sale of a property for (SAR 150,000). The Plaintiff is requesting the cancellation of the Defendant's decision. ZATCA has argued that ZATCA has determined that the sale price does not reflect the actual market value of the property, which has led to the assessment of the property based on its fair market value. This is based on data from the Ministry of Justice for the same plot and area, which shows the average price per square meter, and consequently, the imposition of the due real estate transaction tax. With regard to the real estate transaction tax, the Department has established as follows: In its Rejoinder, the Defendant explained the method of calculating the property value by estimating the average sale prices for the same plot and reassessing the property at the average and calculating the tax. However, the Defendant did not provide the necessary supporting documents. Additionally, using the average sale prices for the plot does not represent an accurate indicator of the market value of the property, as calculating the average takes into account both the highest and lowest prices of properties in the same plot, which may lead to calculating the price per square meter (as an average) higher than the actual price per square meter of the disputed property, as properties in the same plot may have different advantages and disadvantages, and consequently, different market values. Regarding the late payment fine, it is clear that the dispute lies in the Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price; which resulted in a late payment fine for the tax due. Since the late payment fine resulted from that, the related matters shall have the same force and effect. Department ruled to Accept the Plaintiff's claim and annul the Defendant's decision and any penalties resulting therefrom – the decision is considered final and enforceable.

Documents:

- Articles (1/6,2) of [the Implementing Regulations for RETT issued pursuant to the Ministerial Decision No. \(712\) dated 15/02/1442 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Tuesday, 27/12/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Decree No. (13957) dated 26/02/1444 AH. Facts of the case are summarized that Mr., ID No. (...), has filed an objection to the imposition of real estate transaction tax and the resulting late payment fine due to the sale of a property for (SAR 150,000). The Plaintiff is requesting the cancellation of the Defendant's decision.

The Defendant responded with a memorandum of reply, stating the following: "ZATCA reviewed the real estate transaction conducted by Plaintiff in the Case, in accordance with Paragraph (1) of Article (6) of the Implementing Regulations of RETT, which states: "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. As a result of this review, reassessment of the real estate transaction was carried out. In accordance with ZATCA's power to estimate the fair market value of the property as granted by Article (6.2) of the Implementing Regulations of RETT, which states: "For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to: 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" ZATCA has determined that the sale value does not represent the actual market value of the property, as such, ZATCA has valued the property based on its market value, relying on the Ministry of Justice data for the same plot, and consequently imposed the real estate transaction tax due. Regarding the fine, ZATCA informs the esteemed committee that, based on Article (8.C) of the Implementing Regulations of the Real Estate Transaction Tax, which stipulates: "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". As such, a late payment fine was imposed on the Plaintiff. End of Reply.

The Defendant responded with a memorandum of reply, stating the following: The sale was conducted through a licensed real estate agency, and there was no external agreement with the buyer, and the meeting with the buyer took place at the notary public office. I have attached a copy of the sale deed for the two plots, which proves that the sale was conducted through a real estate agency, where I had listed them for sale, namely ".....". The Plaintiff concluded Plaintiff's Replication by requesting the cancellation of the fine. End of Reply.

On Tuesday, 27/12/2022 AD, a session was held in accordance with Procedures for Remote Litigation. The Defendant was present, while the Plaintiff was not, despite being notified of the date and manner of conducting the session. The Defendant's Representative, ID No (...) also attended the session, in his capacity as ZATCA Representative, by virtue of authorization No. (.....) dated, issued by Deputy Governor for Legal Affairs and Compliance. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. Accordingly, the Department decided to temporarily dismiss both parties from the remote session for deliberation and decision issuance.

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and related laws and regulations. The Department has decided as follows:



In Form: Since the Plaintiff instituted his case moving to cancel the Defendant's decision regarding the imposition of real estate transaction tax, and the resulting fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Regarding the real estate transaction tax, it is clear that the dispute lies in the Plaintiff's objection to the reassessment of the real estate transaction tax. Article 6.1 of the Implementing Regulations for the Real Estate Transaction Tax stipulates that: "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". Additionally, Article (6.2) of the Implementing Regulations for the Real Estate Transaction Tax stipulates that: "For the purposes of verifying that the due tax is calculated correctly, the Authority shall be entitled to: 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."

Having examined the entire case file and defenses presented, it was determined that the dispute centers on the Plaintiff's objection to the imposition of the real estate transaction tax. In his statement of claim, the Plaintiff stated that he sold the land through a real estate agency (...). He mentioned that he has no relationship with the buyer and asserted that there was no benefit to him or the real estate agency to dispose of the property below its market value. The Plaintiff explained that the real estate agency takes a commission of (2.5%) for selling the property and that it is an expert in market prices at the time of the sale. Therefore, he sold the property at that price based on the fact that he is from Medina and the land is located in Riyadh, in addition to several other reasons detailed in his statement of objection. The Defendant replied by stating that it became apparent to the Defendant that the sale price does not reflect the actual market value of the property. Consequently, the value of the property was assessed based on its fair market value, relying on data from the Ministry of Justice for the same plot and district. The average price per square meter was determined, and accordingly, the due real estate transaction tax was imposed.

Based on the foregoing, In its Rejoinder, the Defendant explained the method of calculating the property value by estimating the average sale prices for the same plot and reassessing the property at the average and calculating the tax. However, the Defendant did not provide the necessary supporting documents. Additionally, using the average sale prices for the plot does not represent an accurate indicator of the market value of the property, as calculating the average takes into account both the highest and lowest prices of properties in the same plot, which may lead to calculating the price per square meter (as an average) higher than the actual price per square meter of the disputed property, as properties in the same plot may have different advantages and disadvantages, and consequently, different market values. Therefore, the Department finds that the Defendant's decision is to be cancelled; for failing to provide a fair valuation of the property, as the average price per square meter cannot be solely relied on.

Regarding the late payment fine, it is clear that the dispute centers on the Plaintiff's objection to the Defendant's decision to reassess the property at a value higher than the sale price; which resulted in a late payment fine for the tax due. Since the First Clause led to the cancellation of the Defendant's decision, and given that the late payment fine resulted from that decision, the related matters shall have the same force and effect. Therefore, the Department decides to cancel the Defendant's decision.

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committees Procedures, the Department, after deliberation, unanimously decided:

Decision:



- To accept the Plaintiff's claim and cancel the Defendant's decision and any penalties resulting therefrom.

This decision was issued in presence of both parties. The date of entry of the decision into the electronic system of General Secretariat of the Zakat, Tax, and Customs Committees shall be considered the date of service of the decision. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, the decision shall become final and enforceable after expiration hereof.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Zakat, Tax, and Customs Committees Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2023-92670)
Delivered in Case No. (R-2022-
92670)

Keywords:

Real Estate Transaction Tax - Incorrect Entry - Tax Declaration - Imports Subject to Basic Rate and Paid upon Importation - Taxable Local Sales - Error in Tax Declaration - Late Payment - Value Added Tax.

Abstract:

The Plaintiff is requesting to cancel ZATCA's decision regarding the reassessment of the real estate transaction tax and the resulting fines- The Plaintiff based his objection on two Clauses: The First: Reassessment of the real estate transaction tax; the Plaintiff stated that ZATCA did not rely on the scientific methods used in real estate valuation but instead used average prices for sales transactions conducted through the Ministry of Justice website. ZATCA did not take into account that the disputed property is an old villa approximately 35 years old and compared it to the prices of new villas. Also, ZATCA did not consider the location and specifications of the property in its valuation; as it was behind a commercial street, opposite a boys' Secondary school, and adjacent to a mosque, all of which affect its price. The Plaintiff also attached a valuation of the property from an accredited real estate appraiser. The Second: Late payment fine: The Dispute between the Plaintiff and the Defendant centers on the imposition of a late payment fine resulting from the reassessment of the disputed property. ZATCA replied by stating that regarding the tax due after the reassessment, it was found, after ZATCA reassessed the property disputed by the Plaintiff, that the declared amount was less than the market value of the property. This was determined after referring to and reviewing the data recorded with the Ministry of Justice; where it was found that the average price of land and sales transactions in the same plot were higher than the amount declared by the Plaintiff to ZATCA; which resulted in an adjustment to the amount of tax due that ZATCA did not attach. Anyone with knowledge of the real estate market would confirm it, not to mention the very large discrepancy in the real estate data of the Ministry of Justice, such as the average monthly price per square meter for residential land. Regarding the late payment fine, ZATCA stated that the decision was made due to the results of the reassessment and the resulting adjustment to the tax amount due to ZATCA. - With regard to the reassessment of the real estate transaction tax. The Department has established the following: It is clear that the value of the land sold during the assessment period, according to the assessment attached by the Plaintiff from the real estate appraiser, totaled SAR 1,986,250 for an area of 875 square meters, with an average price per meter of SAR 2,270. Referring back to the assessment submitted by the Plaintiff, it is clear that, according to the plots of land sold and adjacent to the disputed plot of land in the same area, the prices per square meter in adjacent plots in the same plot range between SAR 3,000 and SAR 3,100 per meter, which is approximately the price per meter calculated for the reassessment conducted by the Defendant of the value of the land sold, as the sale price according to the ZATCA's assessment is SAR 2,964,305.56 and the land area is 875 square meters, which means



that the price per meter (SAR 2,964,305.56/ 875 meters) is equal to SAR 3,387 per meter. Meanwhile, the Plaintiff calculated the declared value at SAR 1,200,000 for an area of 875 meters (1,200,000/875), equaling SAR 1371 per meter. Thus, it is clear that the value declared by the Plaintiff at a price of SAR 1,371 Riyals per meter is inconsistent with the real estate appraisal attached by the real estate appraiser at a price of SAR 2,270 per meter, nor with the price of the plots included in the appraisal at prices ranging between SAR 3,000 and SAR 3,100 per meter, which clearly shows the inaccuracy of the Plaintiff's declaration of the market value representing the sale price of the property. Since even if the Plaintiff did not insist on the price of the real estate appraisal from the accredited appraiser but instead requested the cancellation of the Defendant's action, he is still bound by the price provided, and therefore the Department decided to modify the Defendant's decision to reassess the amount to be SAR 1,986,250 and for the Defendant to recalculate the late payment fine accordingly. - The Department ruled to: modify the Department's decision regarding the Defendant's reassessment as follows: the payment amount shall be set at SAR 1,986,250, and the Defendant is to recalculate the late payment fine accordingly. All other requests shall be denied.

Documents:

- Articles (3/6/A) and (4) of [Implementing Regulations of the Real Estate Transaction Tax issued pursuant to Ministerial Resolution No. \(712\) dated 15/02/1442 AH.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and upon his family and all his companions; now therefore:

On Monday, 09/01/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH, convened to consider the case.

The facts of this case are summed up that Mr. (...), ID No. (...), acting on his own behalf, has filed an objection against the reassessment of the real estate transaction tax and resulting fines issued by ZATCA. The Plaintiff's objection was based on two Clauses: The First Clause: Reassessment of the real estate transaction tax; the Plaintiff stated that ZATCA did not rely on the scientific methods used in real estate valuation but instead used average prices for sales transactions conducted through the Ministry of Justice website. ZATCA did not take into account that the disputed property is an old villa approximately 35 years old and compared it to the prices of new villas. Also, ZATCA did not consider the location and specifications of the property in its valuation; as it was behind a commercial street, opposite a boys' Secondary school, and adjacent to a mosque, all of which affect its price. The Plaintiff also attached a valuation of the property from an accredited real estate appraiser. The Second Clause: Late payment fine: The Dispute between the Plaintiff and the Defendant (ZATCA), centers on the imposition of a late payment fine resulting from the reassessment of the disputed property.

Upon reviewing the Defendant's response, it was stated that regarding the tax due after the reassessment, ZATCA stated that after ZATCA reassessed the property disputed by the Plaintiff, it was found that the declared amount was less than the market value of the property. This was determined after referring to and reviewing the data recorded with the Ministry of Justice; where it was found that the average price of land and sales transactions in the same plot were higher than the amount declared by the Plaintiff to ZATCA; which resulted in an adjustment to the amount of tax due. In his replication, the Plaintiff stated that this method does not take into account the factors that distinguish one property from another in terms of price, such as the property age, the facade, the location within the plot, the street width, the length of the property, the adjacent properties, and other relevant factors. This was confirmed by the report of the accredited real estate appraiser (a copy attached) which was previously submitted to ZATCA at its request, and it



is also confirmed by anyone with knowledge of the real estate market, not to mention the very large discrepancy in the real estate data of the Ministry of Justice, such as the average monthly price per square meter for residential land. With respect to the late payment fine, it was stated that in light of the reassessment as well as the resulting adjustment to the tax amount due to ZATCA, a late payment fine was imposed pursuant to Article 8. C of the Implementing Regulations of the Real Estate Transaction Tax.

On Monday, 09/01/2022, a session was held in accordance with Procedures for Remote Litigation, as both parties wished to proceed with the case. Mr. (...), ID No. (...) attended in his capacity as the Plaintiff's Attorney under POA No. (...), and Mr. (...), the Defendant's Representative, ID No. (...) attended in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../ 05/ 1444 AH, issued by Deputy Governor for Legal Affairs and Compliance. Having asked the Plaintiff Attorney about the case he maintained his statements contained in the statement of claims submitted to the General Secretariat of Zakat, Tax and Customs Committees, and having asked the Defendant's Representative about his reply to Plaintiff claims, he maintained his answers contained in his Reply. When the Plaintiff was asked whether the property sold was land or a villa, he replied that it was an old villa that was sold as land because it was old, and to his knowledge, it had been demolished. When both parties to the case were asked if they wished to add anything, they decided to be satisfied with what had been previously presented. Since the case was ready for judgment, the Department decided to temporarily clear the virtual courtroom for deliberation and to issue a judgment.

After due deliberation, the following decision was issued:

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations, the Department has decided as follows:

In form, since the Plaintiff instituted his case moving to cancel the Defendant's decision, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On merits, with regard to the reassessment of the real estate transaction tax, it is clear that the dispute between the Plaintiff and the Defendant centers on the reassessment of the real estate transaction tax and the resulting fines. Article (4) of the Implementing Regulations of the Real Estate Transaction Tax stipulates that "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" Additionally, Article (3.a/6) of the Real Estate Transaction Implementing Regulations stipulates: "The following cases shall be excluded, in full or part, from the RETT application scope: 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".

After reviewing the entire case file, including the defenses presented, and the assessment submitted by the Plaintiff, it is clear that the value of the land sold during the assessment period, according to the assessment attached by the Plaintiff from the real estate appraiser, totaled SAR 1,986,250 for an area of 875 square meters, with an average price per meter of SAR 2,270. Referring back to the assessment submitted by the Plaintiff, it is clear that, according to the plots of land sold and



adjacent to the disputed plot of land in the same area, the prices per square meter in adjacent plots in the same plot range between SAR 3,000 and SAR 3,100 per meter, which is approximately the price per meter calculated for the reassessment conducted by the Defendant (ZATCA) of the value of the land sold, as the sale price according to the ZATCA's assessment is SAR 2,964,305.56 and the land area is 875 square meters, which means that the price per meter (SAR 2,964,305.56 / 875 meters) is equal to SAR 3,387 per meter. Meanwhile, the Plaintiff calculated the declared value at SAR 1,200,000 for an area of 875 1,200,000/875 equaling SAR 1371 per meter. Thus, it is clear that the value declared by the Plaintiff at a price of SAR 1,371 Riyals per meter is inconsistent with the real estate appraisal attached by the real estate appraiser at a price of SAR 2,270 per meter, nor with the price of the plots included in the appraisal at prices ranging between SAR 3,000 and SAR 3,100 per meter, which clearly shows the inaccuracy of the Plaintiff's declaration of the market value representing the sale price of the property. Since even if the Plaintiff did not insist on the price of the real estate appraisal from the accredited appraiser but instead requested the cancellation of the Defendant's action, he is still bound by the price provided, and therefore the Department decided to modify the Defendant's decision to reassess the amount to be SAR 1,986,250 and for the Defendant to recalculate the late payment fine accordingly. Other requests shall be denied for ineligibility.

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committees Procedures, the Department, after deliberation, unanimously decided:

Decision:

First: To modify the Department's decision regarding the Defendant's reassessment as follows: the payment amount shall be set at SAR 1,986,250, and the Defendant is to recalculate the late payment fine accordingly.

Second: All other requests shall be denied.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Judgment has become final by expiration of objection period under article 33.2 of Zakat, Tax, and Customs Committees Procedures.



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2023-93992)
Delivered in Case No. (R-2022-
93992)

Keywords:

Real Estate Transaction Tax - First Home - Tax Decision - Certificate of Entitlement - Payment of Attorney Fees.

Abstract:

The Plaintiff filed a case seeking payment of (SAR 40,000) representing the VAT from the Defendant. The Plaintiff based its claim on the fact that he owns the property located in (.....) district, in Jeddah, as evidenced by title deed number (...). Saudi citizen (...) purchased the apartment with financing from the Defendant for the amount of SAR 800,000. The Plaintiff paid SAR 40,000 as VAT to ZATCA pursuant to tax decision no. (...). The Saudi citizen obtained a certificate of entitlement no.(...). Upon requesting a refund of the tax from ZATCA, it was found that the Defendant had unlawfully refunded the tax to ZATCA. Therefore, the Plaintiff requests that the Defendant (...) pays SAR 40,000 which is the amount of the tax, and SAR 10,000 as attorney fees. - The Defendant did not submit any reply- The Department established that the Plaintiff attached the tax registration certificate and submitted his tax declaration (for Q1 2020), as well as the apartment 's deed of vacation for the Defendant (...), On 16/03/2020 AD in the amount of SAR 800,000 during the same period of the Plaintiff's tax declaration. It was also found that the Plaintiff registered for the tax on 21/01/2020 AD and the date of sale was 16/03/2020 AD, which means that he was authorized to charge the tax at the time of sale, and since the amount paid by the bank in this respect may be disregarded in light of the above, the Department decided to order that the Defendant Company to pay the claimed amount. With regard to attorney fees: The Plaintiff did not provide proof for his claims; hence its claim should be dismissed. Accordingly, the Department hereby decides to order that the Defendant pays the VAT at the standard rate of SAR 40,000. Therefore: Require the Defendant to pay the Plaintiff the amount of SAR 40,000 and dismiss other claims.

Documents:

- Article 23.1 of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. M/51 dated 05/03/1438 AH.](#)
- Article (14) of [the Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and upon his family and all his companions; now therefore: ◇



On Monday, 02/01/2023, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH, convened to consider the case.

The facts of this case are summed up as follows: Mr....., ID No....., in his capacity as the attorney under POA No.....for the Plaintiff, ID No....., has filed a statement of claims against the Defendant (.....) Company, CR No. Petitioning for a decision that order that the Defendant pays VAT tax amount of SAR 40,000. The Plaintiff based his claim on grounds that he owns the property located in the neighborhood in Jeddah under the title deed No. and the citizen Mr....., National ID No. purchased the apartment with financing from the Defendant in the amount of SAR 800,000 (eight hundred thousand Saudi riyals). Then, the Plaintiff paid VAT to the General Authority of Zakat and TAX in the amount of SAR 40,000 (forty thousand riyals) under Tax Decision No. (...), and pursuant to the Royal Decree No. (A/86) of 18/04/1439 AH, which stipulates that the government will bear the VAT on behalf of Saudi Citizens for the purchase of their First home. The citizen has obtained eligibility certificate No..... When requesting a refund of the tax from the General Authority of Zakat and Income, it was found that the Defendant had unduly refunded the tax for his own. Accordingly, the Plaintiff requests that the Defendant ... pays the value of the tax in the amount of SAR 40,000, as well as to attorney fees in the amount of SAR 10,000.

The Defendant did not submit a reply despite being notified of the case filed against it.

The Defendant's responses included in its reply was as follows: First: Regarding the request that my client pays VAT, The Plaintiff requested that the bank pays the VAT charged on the property at 5% which is SAR 40,000, while he did not provide us with the property's sale invoice and VAT registration certificate, and therefore his claim is groundless and hence dismissible. Second: Regarding the Plaintiff's claim for attorney fees: As for this request, the Department decided to dismiss it for not having the jurisdiction to determine such matter as per the Code of Law Practice and its Implementing Regulations in Article 28.5, which provides that: "Hearing attorney fees matters falls within the jurisdiction of the courts, and is determined by the judge who determined the original case. However, if the original case was heard by a body other than the courts, the fees matter shall be determined according to the type of jurisdiction of the courts stated in the Law of Procedure before Sharia Law." The Defendant requests that the case be dismissed with regard to the request for VAT, as well as the attorney fees for lack of jurisdiction.

On Monday 02/01/2023, the session was held according to the remote video litigation procedures. Having called the parties to the case, Mr....., ID No. (...) was present in his capacity as the Plaintiff's attorney under POA No. (...), and Mr....., ID No. (...) was present in his capacity as the Defendant's Attorney, by POA No. Having asked the Plaintiff's attorney about his case, he maintained his responses submitted in the statement of claims filed with the General Secretariat of the Tax Committees. Having asked the Defendant's attorney about his reply, he maintained the responses included in his Reply. After that, the Department asked the Plaintiff's attorney about the date of registration for VAT by his client. He replied that it was on 21/01/2020 presenting the registration at the video session. Having asked the parties to the case if they had anything else to add, they replied "no". Given that the case was ready for adjudication, the Department decided to temporarily clear the video session for deliberation and delivery of decision.

After due deliberation, the following decision was issued:

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by



Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations, the Department has decided as follows:

In form: The Plaintiff instituted this case claiming that the Defendant pays to him the VAT tax in the amount of SAR 40,000 resulting from the sale of a property to the Defendant, based on the Value Added Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: it was held that the dispute between the Plaintiff and the Defendant as about the Plaintiff claiming tax amount from the Defendant ... in the amount of SAR 40,000. Since Article 23.1 of the Common VAT Agreement of GCC States stipulates: “1. Tax becomes due on the date of the supply of Goods or Services, the date of issuance of the tax invoice or upon partial or full receipt of the Consideration, whichever comes First, and to the extent of the received amount”. Article (14) of the Implementing Regulations of the Value Added Tax Law also provides that: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom.”

Having taken cognizance of the case file and the defenses contained therein, it was found that the Plaintiff attached the tax registration certificate, the tax declaration (for the First quarter of 2020) together with the deed of conveyance of the apartment to the Defendant on 16/03/2020 AD for an amount of SAR 800,000 during the same period as the Plaintiff's tax declaration. The Department also found that the Plaintiff registered for the tax on 21/01/2020 AD and the date of sale was 16/03/2020 AD, which means that he was authorized to charge the tax at the time of sale; and since the amount paid by the bank in this respect should be disregarded in light of the above, the Department decides to oblige the DefendantCompany to pay the claimed amount. As for the attorney's fees and since the Plaintiff did not provide proof for his claims in this connection, his request should be dismissed. Accordingly, the Department resolved to oblige the Defendant pays the VAT at the standard rate of SAR 40,000.

Based on the above grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Order that the Defendant ... Company, C.R..... pays the Plaintiff, ID No. an amount of SAR 40,000 (forty thousand riyals) and dismiss other requests.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Zakat, Tax, and Customs Committees Procedures).



Adjudication Committee
First Department to Adjudicate Value Added
Tax Violations and Disputes in Dammam

Decision No. (VD-2023-94629)
Delivered in Case No. (R-2022-
94629)

Keywords:

Real Estate Transaction Tax – Reassessment of Property – Sale of a Plot of Land – Late Payment – Market Value.

Abstract:

The Plaintiff is requesting to cancel ZATCA's decision regarding the reassessment of the real estate transaction tax and the resulting fines- The Plaintiff based his objection on two Clauses: The First Clause: Real Estate Transaction Tax: The Department concluded that the Plaintiff objects to the Defendant's decision to re-valuate the property at a value higher than the sale value, resulting in a real estate transaction tax due. The Plaintiff stated in his objection that the plot of land was sold for SAR 100,000, and after the re-valuation, a tax and late payment fine were charged. The Plaintiff explained that the reason for selling the plot of land for less than its market value was due to settlement of the building in addition to over building costs compared to neighboring buildings, thus leading to lower price than other lands. The Plaintiff offered the plot of land to a real estate office and stated that the aforementioned land is located behind a commercial land, and that it has settled below the road level by more than 4 meters, which increases the cost of construction, and that it is considered a defect and reduces its market value. The Plaintiff also attached proof for that. The Second Clause: Late payment fine: It is found that the Plaintiff objects to the Defendant's decision to re-valuate the property at a value higher than the sale value, which ensued a late payment fine for the tax due. As for First Clause, ZATCA replied as follows: ZATCA stated that it had examined the transaction carried out by the Plaintiff and that examination resulted in a re-valuation of the property according to ZATCA's authority to estimate the fair market value of the property. With regard to Second Clause: ZATCA stated that a late payment fine was charged on the Plaintiff accordingly. - It was established for the Department concerning the First Clause: The Defendant did not clarify in its reply or in the re-valuation results notice the grounds for valuing the property at a value higher than the disclosed value, other than relying on the price index according to the data of the Ministry of Justice. In addition, for the sake of justice, the valuation must be made according to a field inspection that takes account of all the factors that negatively or positively affect the value of the property, especially since it is necessarily known that the prices of the plots differ from one plot to another, even if they are adjacent, and prices may vary radically due to several factors in terms of the level or the number of utility rooms or the presence of soil settlement or the like. As for Second Clause: it takes the same effect of First Clause. - The Department ruled to: Cancel the Defendant's decision and any related fines.

Documents:

- Articles (3/6/A) and (4) of [Implementing Regulations of the Real Estate Transaction Tax issued pursuant to Ministerial Resolution No. \(712\) dated 15/02/1442 AH.](#)



Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and upon his family and all his companions; now therefore:

On Monday, 02/01/2023, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (13957) dated 26/02/1444 AH, convened to consider the case.

The facts of this case can be summarized as follows: Mr....., National ID No., filed an objection to the re-assessment of RETT and the related fines issued by ZATCA. The Plaintiff's objection was based on two grounds. The First Clause: Real Estate Transaction Tax: It was found that the Plaintiff objects to the Defendant's decision to re-valuate the property at a value higher than the sale value; which resulted in a real estate transaction tax due. The Plaintiff stated in his objection that the plot of land was sold for SAR 100,000, and after the re-valuation, a tax and late payment fine were charged. The Plaintiff explained that the reason for selling the plot of land for less than its market value was due to settlement of the building in addition to over building costs compared to neighboring buildings, thus leading to lower price than other properties. The Plaintiff offered the plot of land to a real estate office and stated that the aforementioned land is located behind a commercial land, and that it has settled below the road level by more than 4 meters, which increases the cost of construction, and that it is considered a defect and reduces its market value. The Plaintiff also attached proof for that. The Second Clause: Late payment fine: It is found that the Plaintiff objects to the Defendant's decision to re-valuate the property at a value higher than the sale value, which ensued a late payment fine for the tax due.

when presenting the Plaintiff's statement of claims to the Defendant, it replied that in respect of the RETT that it had examined the transaction carried out by the Plaintiff and that examination resulted in a re-valuation of the property according to ZATCA's authority to estimate the fair market value of the property. With regard to the late payment fine, ZATCA stated that a late payment fine was imposed on the Plaintiff based on Article 8 (c) of the Implementing Regulations of the Real Estate Transaction Tax Law.

In its rejoinder, the Defendant indicated that it would like to clarify some points regarding the grounds for calculating the fair market value, which are as follows: ZATCA valued the property subject matter of Deed No. ... in the amount of SAR 270,685.00 and a tax of SAR 13,534.25. The price per square meter was calculated at SAR 676.71 based on the fair market value pursuant to Article 6.2 of the Implementing Regulations of the Real Estate Transaction Tax Law. In establishment of its defense, ZATCA added that it refers to the definition of "Market Value" contained in Article 30.1 of the International Valuation Standards. The texts referred to provide that the market value is determined based on the best price that the seller can have with the exception of odd values. ZATCA went on confirming that it had not relied on the data from the Ministry of Justice, and it had excluded any odd prices, whether higher or lower than the average value of such property following the international valuation standards. ZATCA also clarified its procedure for the re-valuation of properties that it adopts one of the international valuation approaches and standards approved by the Saudi Authority for Accredited Valuers, which is the market approach. This approach followed by ZATCA is based on comparing the asset being valued with other similar assets, as stipulated in Article 20.1 of the International Evaluation Standards. ZATCA wishes to point out that the Implementing Regulations of Real Estate Transaction Tax granted ZATCA the power to verify the accuracy of the tax calculation and to estimate the value of the property if no value is determined or if the value is less than the market value, as stated in Article (6.2). Based on the foregoing, ZATCA insists on the validity of its actions, subject of the case

On Monday, 02/01/2023, a session was held in accordance with Procedures for Remote Litigation, as both parties wished to proceed with the case. Mr. (...), ID No. (...) attended acting on behalf



of himself, and the Defendant's Representative, ID No. (...) attended in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../ 05/ 1444 AH-, issued by Deputy Governor for Legal Affairs. Having asked the Plaintiff about the case he maintained his statements contained in the statement of claims submitted to the General Secretariat of Zakat, Tax and Customs Committees, and having asked the Defendant's Representative about his reply to Plaintiff claims, he maintained his answers contained in his Reply. When both parties to the case were asked if they wished to add anything, they decided to be satisfied with what had been previously presented. Since the case was ready for judgment, the Department decided to temporarily clear the virtual courtroom for deliberation and to issue a judgment.

After due deliberation, the following decision was issued:

Grounds:

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations, the Department has decided as follows:

In form, since the Plaintiff instituted his case moving to cancel the Defendant's decision, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On merits, with regard to the reassessment of the real estate transaction tax, it is clear that the dispute between the Plaintiff and the Defendant centers on the reassessment of the real estate transaction tax and the resulting fines. Article (4) of the Implementing Regulations of the Real Estate Transaction Tax stipulates that "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" Additionally, Article (3.a/6) of the Real Estate Transaction Implementing Regulations stipulates: "The following cases shall be excluded, in full or part, from the RETT application scope: 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".

Given that the Defendant did not clarify in the Reply or in the reassessment notification the mechanism used to calculate a higher property value than the declared value, other than relying on the price index according to the Ministry of Justice's data. Furthermore, to distance oneself from liability and to achieve justice, the valuation should be based on a field assessment that takes into account all factors positively or negatively affecting the property value, especially since it is well known that property prices vary from one plot to another, even if they are adjacent, and prices may vary significantly due to several factors such as elevation, service room deductions, or the presence of a high or low place or the like, the Department has therefore decided to cancel the Defendant's decision, And resulting decisions.

Based on the foregoing and in accordance with provisions of Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

To accept the Plaintiff's case and cancel the Defendant's decision as well as any fines resulting thereof.



This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Judgment has become final by expiration of objection period under article 33.2 of Zakat, Tax, and Customs Committees Procedures.



Appeal

Appeal Committee First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods in Riyadh

Decision No. (VA-2022-757)
Delivered in Case No. (R-86915-
2021)

Keywords:

Appeal – Real Estate Transaction Tax – Decision is in Agreement with Valid Reasons upon which it was Based and is Sufficiently Supported to Uphold Judgment – Acceptance of Appeal in Form for being Submitted by a Person with Capacity within the Statutory Period – Rejection of Appeal.

Abstract:

The Appellant is requesting the cancellation of the decision of the Third Department to Adjudicate Value Added Tax in the case filed by the Appellant against the Appellee, which ruled to not accept the case in form due to premature filing. The Appellant argues that the decision issued by the Appellee was incorrect and concluded with requesting to accept the appeal. Having examined the appeal, the Appeals Chamber found that the decision is in accordance with the sound reasons upon which it is based and is sufficient to support its judgment. The Department that issued the original decision thoroughly examined the dispute and reached the conclusion stated in its judgment. Since the Appeal Chamber did not find any reason to modify or comment on the decision in light of the defenses presented, the Chamber has decided to reject the taxpayer's appeal and uphold the Adjudication Department's decision subject of the appeal. The Chamber ruled to accept the appeal in form and reject it on merits.

Documents:

- Article (67/5) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH, amended by Royal Decree No. \(M/113\), dated 02/11/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah, and prayers and peace be upon our Prophet Muhammad, his Family, and all Companions.

On Sunday 13/03/1444 AH, corresponding to 09/10/2022 AD, the First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (13957) dated 26/02/1444 AH, in accordance with (Article 67.5) of the Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/1/1425 AH, as amended under Royal Decree No. (M/113) dated 2/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal submitted on 19/12/2021 AD, by Mr. ..., ID .No (...), acting on his own behalf, regarding Decision No (985-2021-VTR) issued by Third Department to Adjudicate Value Added Tax in Riyadh, pertaining to the case filed by the Appellant against the Appellee. Since facts of this



case have been stated in the decision subject matter of appeal, Appeals Chamber refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

- Not to accept the case in form.

Since this decision was not accepted by the Appellant, the Appellant submitted to Appeals Chamber an appeal statement that included objection to the decision of the Tax Dispute and Violations Committee subject of the appeal, to not accept the case in form, namely that it had been filed prematurely, because the decision issued by Appellee was not valid. The statement was concluded with a request to accept the appeal.

On Sunday 13/03/1444 AH, corresponding to 09/10/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goodsheld a session to consider the appeal submitted via video conference, based on Article 15.2 of the Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds:

Whereas, by reviewing case documents and appeal statement submitted, the Chamber found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and decisions. This makes appeal request acceptable in form for submission by a person of legal capacity, and within the period prescribed by law for its conduct.

On Merits: After reviewing case files and examining all relevant documents, submissions and replies submitted by two parties, Appeals Chamber found that the decision issued by Department to not accept the case in form as it was filed prematurely. Since it is established that the decision subject of appeal with respect to conflict subject of consideration matches provisions of Law and grounds on which it is based, and since Chamber did not find anything to be corrected or commented on with regard thereto in light of raised defenses submitted before such Chamber, Chamber acknowledged that such defenses shall not affect decision outcome. Therefore, Appeals Chamber concludes by acknowledging rejection of appeal and upholding Department decision. Therefore, and after due deliberation, Chamber unanimously decided the following:

Decision:

First: Accept the Appeal of, ID No (...) in form for submission during the period prescribed by law.

Second: Reject the Appeal of ID No (...), and uphold Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VTR-2021-985).

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.



Appeal

Appeal Committee First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods in Riyadh

Decision No. (VA-2022-702)
Delivered in Case No. (V-
88828-2021)

Keywords:

Appeal – Real Estate Transaction Tax – Input Tax – Final Assessment – Tax Period – Local Purchases Subject to Basic Tax – Acceptance of Appeal in Form and On Merits.

Abstract:

The Appellant is requesting the cancellation of the challenged decision of the First Instance Department, which dismissed the claim to cancel ZATCA's decision regarding a reassessment of Q3 2020. The Appellant claims being entitled to deduct input tax because the property was purchased before the real estate transactions law came into effect. The Appeals Chamber has established that the dispute centers on the Appellant's objection to the Adjudication Department's decision, as the Appellant claims being entitled to the tax deduction due to purchasing the property before the implementation of the real estate transactions law. However, the basis for the Adjudication Department's decision to reassess the disputed tax period is that the Appellant's registration occurred on 06/10/2021, before the real estate transactions law came into effect. Based on the evidence and documents submitted in the case, the Appellant's VAT registration date was 01/09/2020, which is before the effective date of the real estate transactions law, which was 04/10/2020. The Appellant submitted the tax declaration for the disputed tax period from 01/09/2020 to 30/09/2020. It has been established that the Appellant was subject to tax and required to register before 04/10/2020. Furthermore, the Appellant has provided the property purchase deed and the tax invoice dated 27/09/2020. Department ruled to Accept the appeal of ... regarding 'local purchases subject to the basic tax rate' in the final reassessment for Q3 2020, cancel the decision of the Second Department and cancel the actions taken by the Appellee.

Documents:

- Articles (15/2) and (40/2) of [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah, and prayers and peace be upon our Prophet Muhammad, his Family, and all Companions.

On Tuesday, 10/02/1444 AH, corresponding to 06/09/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (65474) dated 23/12/1444 AH, in accordance with Article 67.5 of the Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal submitted on 26/12/2021 AD, by..., ID No. (...) in the Appellant's own capacity, regarding the



decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (36-2021-ER in the case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appeals Chamber refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In form:

To Accept the case in form.

Second: On merits:

To Dismiss the case of Plaintiff ..., ID No. (...) on merits.

Since the Appellant did not accept this decision, the Appellant filed an appeal with the Appeals Chamber that included an objection to the Adjudication Committee's decision to dismiss the case which sought to cancel ZATCA's decision regarding a reassessment of the Q3 2020. The Appellant claims being entitled to deduct input tax because the property was purchased before the real estate transactions law came into effect. The appeal concluded with a request for the appeal to be accepted and Adjudication Department's decision to be cancelled.

On Tuesday, 10/02/1444 AH, corresponding to 06/09/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goodsheld a session to consider the appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, Chamber decided to adjourn session and issue decision.

Grounds:

Based on the Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH;

And, Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, the appeal shall be accepted in form.

On Merits: After reviewing case files and examining all relevant documents, submissions and replies submitted by two parties. The Appellant is objecting to the Department's decision to dismiss the case regarding the reassessment of Q3 2020, specifically concerning local purchases subject to the basic tax rate. The dispute centers on the Appellant's objection to the Adjudication Department's decision, as the Appellant claims being entitled to the tax deduction due to purchasing the property before the implementation of the real estate transactions law. However, the basis for the Adjudication Department's decision to reassess the disputed tax period is that the Appellant's registration occurred on 06/10/2021, before the real estate transactions law came into effect. Based on the evidence and documents submitted in the case, the Appellant's VAT registration date was 01/09/2020, which is before the effective date of the real estate transactions law, which was 04/10/2020. The Appellant submitted the tax declaration for the disputed tax period from 01/09/2020 to 30/09/2020. It has been established that the Appellant was subject to tax and required to register before 04/10/2020. Furthermore, the Appellant has provided the property purchase deed and the tax invoice dated 27/09/2020. As such, the Appeal Chamber concludes to accept the filed appeal and cancel the Adjudication Department's decision.

Therefore, and after due deliberation, Chamber unanimously decided the following:

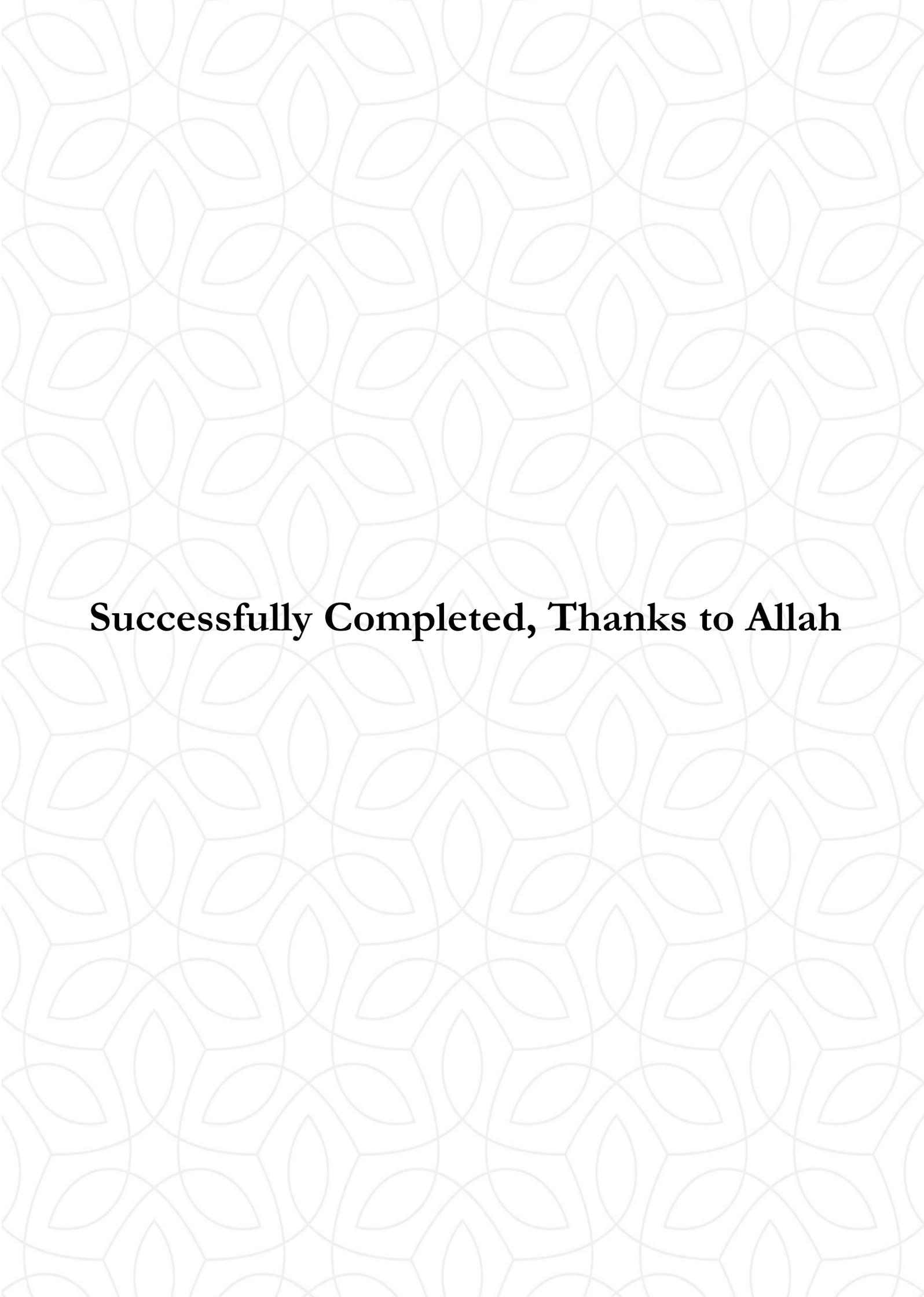
Decision:



First: Accept the Appeal from ..., ID No. (...) In form for submission during the period prescribed by law.

Second: Accept the Appeal from ..., ID No. (...) regarding 'local purchases subject to the basic tax rate' in the final reassessment for Q3 2020, cancel the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (868-2021-VSR), and cancel the actions taken by the Appellee.

May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.



Successfully Completed, Thanks to Allah