



GRA

GHANA REVENUE AUTHORITY

VAT ADMINISTRATIVE GUIDELINES ON THE SUPPLY BY THE ESTATE DEVELOPER & THE SUPPLIER OF IMMOVABLE PROPERTY FOR RENTAL PURPOSES

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VAT ADMINISTRATIVE GUIDELINES ON THE SUPPLY BY THE REAL ESTATE DEVELOPER & THE SUPPLIER OF IMMOVABLE PROPERTY FOR RENTAL PURPOSES

1.0 INTRODUCTION

The Value Added Tax Act, 2013 (Act 870) imposes VAT on all supplies of goods or services made in Ghana and on all imports of goods or services other than supplies or imports of goods and services that are EXEMPT under the Act. .

On December 29, 2023 , the provision under item 18 of the First Schedule of Act 870 was amended

The Value Added Tax (amendment) Act, 2023 (Act 1107) introduced a flat rate mechanism to account for tax payable on the supply of

- immovable property by an estate developer at a rate of 5% calculated on the taxable supply.
- An immovable property for rental purposes other than for accommodation in a dwelling on a commercial rental establishment at a rate of 5%

2.0 PURPOSE OF THE DIRECTIVE

This directive is issued to offer clear guidelines and procedures for the smooth implementation of the VAT enactments as they relate to supply of immovable property by an estate developer and the supply of immovable property for rental purposes and also to provide for other related matters.

3.0 DEFINITIONS

The amendment of the VAT Act 870 under the First Schedule provides the following definition:

3.1 “Estate developer” means a commercial establishment or an individual engaged in the business of the construction or renovation and supply of immovable property;

In this context, the supply of immovable property by any person other than an estate developer for a dwelling is exempt.

In determining ,for VAT purposes , who is an estate developer the following indicators may be considered in determining if a person is engaged in a particular business:

- i. Profit seeking motive

- ii. The number of transaction
- iii. Existence of similar trading transactions or interest
- iv. Changes to the form of the immovable property
- v. The way the sale was carried out
- vi. The source of finance
- vii. Interval of time between purchase and sale
- viii. Method of acquisition

It is to be noted that where a person who is not a registered estate developer (with Registrar General Department, GRA, Ghana Real Estate Developers Association etc) engages in the business of construction or renovation and supply of immovable property for dwelling, that person will qualify for VAT registration.

3.2 “Dwelling” means any building, premises, structure or any place or any part of these which is not a commercial rental establishment and which is used predominantly as a place of residence or abode of a natural person or which is intended for use as a place of residence or abode of a natural person, together with any appurtenances belonging to the place and enjoyed with the place;

3.3 “Commercial rental establishment” Please refer to **Appendix 1 for guidance.**

4.0 IMPLICATION OF ITEM 18 UNDER THE FIRST SCHEDULE OF ACT 870

Below is the VAT implication of some transactions relating to item no. 18 under the First Schedule of VAT Act, 2013 (Act 870) as amended that is by

No.	TRANSACTION	TAX STATUS	VAT RATE%
1	Land sold for purposes other than for agriculture	Taxable	15
2	Land sold for purposes other than for dwelling	Taxable	15
3	Supply of immovable property for rental purposes (example office accommodation, warehouse, hotel, stores etc)	Taxable	5
4	Civil engineering private works, including private roads and private bridges	Taxable	15
5	Supply of immovable Property by the Estate Developer		5
6	Landscaping		15
7	Professional Services		15

Appendix 1 provides further details on the tax status of transactions under item 18 of the First Schedule.

4.1 VAT RATE & LEVIES APPLICABLE

Estate developers making taxable supplies of an immovable property for dwelling shall charge and account for the VAT at a Flat rate of 5% calculated on the value of the taxable supply. Would also charge and account for the COVID 19 levy at a rate of 1% calculated on the value of the taxable supply

In the supply of an immovable property for rental purposes other than for accommodation in a dwelling on a commercial establishment, the applicable rates are 5% and 1% of VAT and COVID L respectively calculated on the value of the taxable supply

4.1.1 Illustration 1

ETHAN Co. Ltd, an estate developer, sold a three bedroom house in Tema to Yaw Duah for GHS 80,000.00 in the month of January 2024.

ETHAN Co. Ltd will charge and account for the tax as follows:

	GHS
Taxable Value	80,000.00
Covid I ($80,000 \times 1\%$)	800.00
VAT thereon (5%) Flat Rate ($80,000.00 \times 5\%$)	<u>4,000.00</u>
Selling Price	84,800.00

ETHAN Co.. Ltd is required to pay GHS 4,000 .00 VAT & GHS 800 COVID L to the Commissioner General when submitting its January 2024 VAT COVIDL returns by the last working day of February ,2024.

4.1.2 Illustration 2

where supplies are made inclusive of VAT&Covid Levy

Etan & Sons LTD , an estate developer, sold a four bedroom house in Dodowa to Alex for GHS 90,000.00 inclusive of VAT & Covidl in the month of January 2024.

Etan & Sons ltd will charge and account for the tax as follows:

	GHS
Value	90,000.00
VAT thereon($90,000 \times 5/106$)	4,245.28

Covid levy thereon ($90,000 \times 1/106$) 849.06

Ethan Co. Ltd is required to pay GHS 4,245.28 VAT & GHS 849.06 Covid levy to the Commissioner General when submitting its January 2024 returns by the last working day of February 2024.

4.1.3 Illustration 3

Supplier of immovable property for rental purposes other than for accommodation in a dwelling in a commercial rental establishment

NOTE

DANQ Enterprise is into the provision of office accommodation and charges GHS30.00 per square meter exclusive of VAT and the Levies each month. How much would Ben Co.Ltd pay every month for a $1,000\text{m}^2$ made available for use by DANQ Enterprise

Which monthly Tax Returns would DANQ Enterprise file with the Ghana Revenue Authority and how much would the Enterprise pay to the Commissioner General

	GHS
Value ($30 \times 1,000$)	30,000.00
Covid Levy there on($30,000 \times 1\%$)	300.00
VAT there on thereon($30,000 \times 5\%$)	<u>1,500.00</u>
<u>Selling Price</u>	<u>31,800.00</u>

DANQ Enterprise would file the Covidl ,and VAT returns with the Commissioner General by the last working day of the month following the month the transaction occurred

And is required to declare and pay to the Commissioner General GHS 300 Covidlevy ; and VAT of GHS 1,500

5.0 DEDUCTIBLE INPUT TAX CLAIM

An estate developer who accounts for VAT at a flat rate of 5% on the supply of immovable property for dwelling **does not** qualify for input tax claim on its purchases relating to that supply.

Also a supplier of immovable property for rental purposes who accounts for VAT at a flat rate of 5% **does not** qualify for input tax claim on its purchases relating to that supply

6.0 REGISTRATION

An estate developer who is in the business of supplying immovable property and meets the VAT registration threshold shall register for VAT. Any such person must apply to the Ghana Revenue Authority (GRA) for registration for VAT as a tax type. This is in addition to the person's registration with the GRA on account of its obligations relating to income tax and other taxes.

A person who is engaged in the supply of immovable property for rental purposes other than for accommodation in a dwelling on a commercial rental establishment who meets the VAT threshold shall also register for VAT and in addition fulfill all other tax obligations

6.1 Compulsory Registration

Any estate developer who is required to register and has failed to apply for registration, must be compulsorily registered by the Office and sanctioned for failing to register in accordance with sections 14 and 15 of the Value Added Tax Act, 2013 (Act 870).

7.0 RETURNS

An estate developer, who is in the business of supplying immovable property, shall account for the tax on a prescribed VAT Flat Rate tax return for each month.

The VAT registered taxpayer must also account for the COVID 19 levy on a prescribed Return

The filing of returns of the tax/levy due for a tax period shall be made to the Commissioner General not later than the last working day of the month immediately following the month to which the return relates, whether or not tax/levy is payable for the tax period.

The payment of the tax/levy due for a tax period shall be made to the Commissioner General not later than the last working day of the month immediately following the month to which the return relates.

8.0 BUSINESS ACTIVITIES OTHER THAN SUPPLY OF IMMOVABLE PROPERTY

Where an estate developer engages in other taxable business activities in addition to the construction/ renovation and sale/supply of immovable property, such a person shall charge and account for VAT & the Levies on those other taxable business activities at the standard rate of 15% Such other taxable business activities may include:

- i. Services supplied in the course of construction and demolition including:
 - a. Landscaping
 - b. Maintenance of building structures or works
- ii. Lease
- iii. Professional services
- iv. any taxable activity

NB: An estate developer who also engages in activities mentioned in 8.0 above will be eligible for input tax deductions relating to those standard rated supplies. This implies that non- directly attributable inputs must be apportioned in the ratios of the value of supplies of immovable property and other supplies.

However, where the taxpayer makes exempt supplies during the period, apply the formula for apportioning deductible tax for mixed taxable and exempt supply. (Section 26 of VAT Act 870)

Formula

Let:

- X represent taxable value of supplies of immovable property
- Y represents taxable value of other supplies
- Z represents Non-directly attributable input tax

Deductible input tax = $\{Y/(X+Y)\} \times Z$

8.1 Illustration 4

In the month of January 2024, KABA co. Ltd (an estate developer) made the following transactions:

Transaction	Amount (GHS)
Sale of immovable property for a dwelling	800,000.00
Sale of immovable property for commercial activities other than for a dwelling (ie shops & shopping malls)	500,000.00
Rental of dwellings	150,000.00
Rental of office space	100,000.00
Landscaping	15,000.00
Consulting	350,000.00

Purchases (Input Invoices)	Amount GHS
Stationery	20,000.00

Audit fee	30,000.00
Hotel bill for the MD	16,000.00
Building material (relating to sale of a dwelling)	150,000.00
Building materials (relating to provision of accommodation in a dwelling)	90,000.00
Building materials (relating to sale of immovable property for commercial activities)	120,000.00

Please note that Sales are all VAT AND LEVIES exclusive and Purchases are levies inclusive

Required

- i. Compute the levies and output tax
- ii. Compute input taxes
- iii. Compute deductible input tax
- iv. Determine the VAT & Levies payable

Solution

- i. Computation of output tax

Transaction	COVID LEVY (1%)	NHIL + GETFL(5%)	Standard Rate Supplies(15%)	Flat Rate Supplies(5%)	Exempt (Value)
Sale of immovable property for a dwelling (800,000)	8,000		-	40,000	-
Sale of immovable property for commercial activities other than for a dwelling @500,000	5,000	25,000	79,500	-	-
Rental of dwellings(150,000.00) This is exempt			-	-	150,000.00
Rental of office space@100,000	1,000		.00	5,000-	-
Landscaping (@15,000	150	750	2,385.00	-	-

Consulting (@350,000)	3,500	17,500	55,650	-	-
Total Output VAT	17,650	43,250	137,535.00	45,000	-

ii. Computation of input tax

No.	Transaction	Amount GHS	Input tax (15%)	Nature of input	Action to be taken
1	Stationery	20,000.00	3,000	Non attributable	Apportion
2	Audit fee	30,000.00	4,500	Non attributable	Apportion
3	Hotel bill for MD	16,000.00	2,400	Non- deductible	Non- deductible
4	Building materials used in making supply of immovable property for dwelling	150,000.00	22,500	Directly attributable to Flat rate supplies	Non- deductible
5	Building materials (used in making rentals for dwelling)	90,000.00	13,500	Directly attributable to exempt supplies	Non- deductible
6	Building materials (used in making supplies of immovable properties for commercial activities)	120,000	18,000	Directly attributable to standard rate supplies	Deductible

iii. Deductible input tax

Step 1

Determine total non- attributable input tax:

	GHS
Stationery	3,000
Audit fee	<u>4,500</u>
Total	<u>7,500</u>

See Section 49 of VAT Act, 2013 (Act 870) for the treatment of deductible input tax for mixed taxable and exempt supply

Step 2

Ratio of taxable supplies to total supplies (Both Standard Rated and Flat Rated Supplies only):

	GHS
Value of taxable supplies (800,000+500,000+100,000+15,000+350,000)	1,765,000.00
Value of total supplies (VFRS, SRS and Exempt) (800,000+500,000+150,000+100,000+15,000+350,000)	1,915,000.00

$$\text{Ratio (\%)} = 1,765,000.00 / 1,915,000.00 * 100 = 92.17\%$$

Drawing from Section 49 of VAT Act 870, the taxpayer is entitled to deduct as input tax on purchases, an amount that bears the same ratio as the taxable supplies bears to the total supplies.

Step 3

Apportion non-directly attributable input of GHS 7,500.00 (in Step 1 above) as follows: $A \times B / C$

Where:

- A is the total amount of input tax for the period; and
- B is the total amount of standard rated supplies made by the taxable person during the period; and
- C is the total amount of all supplies made by the taxable person during the period

$$A = \text{GHS } 7,500.00 \quad B = (500,000.00 + 350,000.00 + 15,000) = \text{GHS } 865,000.00$$

$$C = (600,000.00 + 400,000.00 + 150,000.00 + 100,000.00 + 250,000.00 + 15,000) = \text{GHS } 1,915,000.00$$

Therefore;

$$A \times B / C = 7,500.00 \times 865,000.00 / 1,915,000.00 = \text{GHS } 3,387.73$$

GHS 3,387.73 represent the portion of the non- directly attributable input which relates to making the standard rated supplies only.

Alternatively, Step 3 can be computed as follows:

- a. Apportion non-directly attributable input of GHS 7,500.00 (in Step 1 above) as follows:

AXB/C

Where:

- A is the total amount of input tax for the period; and
- B is the total amount of taxable supplies made by the taxable person during the period; and
- C is the total amount of all supplies made by the taxable person during the period

Therefore;

$$A \times B / C = 7,500.00 \times 1,765,000.00 / 1,915,000.00 = \text{GHS } 6,912.53$$

GHS 6,912.53 represent the portion of the non- directly attributable input which relates to making the taxable supplies (including 5% Flat rate supplies).

- b. Apportion attributable input tax used in making both standard and Flat rate supplies. Because taxpayer engages in the supply of immovable property for dwelling which is chargeable at a flat rate of 5%, the apportioned input tax in **step 3 (GHS 6,912.53)** must be further apportioned to ensure that only amount that bear the same ratio as the standard rated supplies bears to the total taxable supplies is deducted.

$$\{Y/(X+Y)\} \times Z$$

GHS

- | | | |
|--|---|------------|
| • X represent value of Flat rate supplies | = | 900,000.00 |
| • Y represents taxable value of standard rate supplies | = | 865,000.00 |
| • Z represents Non-directly attributable input tax | = | 6,912.53 |

Portion of deductible input tax relating to only standard rate supplies after considering exempt supplies:

$$= \{865,000.00 / (800,000.00 + 865,000.00)\} \times 6,912.53 = (865,000.00 / 1,665,000.00) \times 6,912.53 = \text{GHC } 3,591.19$$

Total input deductible input tax is as follows:

ii (item 6)	18,000.00
Step 4	<u>3,591.19</u>
Total	<u>21,591.19</u>

iv. VAT& NHIL payable

	Standard Rate	Flat Rate
	GHS	GHS
Total Output tax (i) above	137,535	45,000
Less Total deductible input tax (iii) step 4	<u>21,591.19</u>	=
Net VAT payable	<u>115,943.81</u>	<u>45,000</u>

Total VAT&NHIL payable (115,943.81 +45,000.00) =160,943.81

8.2 Returns

The supply of these other taxable business activities shall be accounted for on VAT Standard Rate Return

Signed.....

Date.....24/3/24

Rev. Dr. Ammishaddai Owusu- Amoah
Commissioner General

GHANA REVENUE AUTHORITY
EXPLANATION OF COMMERCIAL RENTAL ESTABLISHMENT
UNDER THE VALUE ADDED TAX ACT 2013, ACT (870)
FIRST SCHEDULE ITEM NO. 2 AND 18

No.	Item	Tax status	Legal basis
1	<p>Accommodation in a:</p> <ul style="list-style-type: none"> i. Hotel ii. Motel iii. Inn iv. Boarding house (not in approved educational institution) v. Guest house vi. Hostel vii. Or similar establishment <p>Condition:</p> <ul style="list-style-type: none"> • The establishment is able to regularly or normally provide lodging for five or more persons on a daily, weekly, monthly or other periodic charge; 	Taxable	First Schedule item 2(a)
2	<p>Accommodation in a:</p> <ul style="list-style-type: none"> i. House ii. Flat iii. Apartment iv. Room <p>Condition</p> <ul style="list-style-type: none"> • Exclude item no. 1 above and 3 below • Leased regularly or systematically or held for lease as residential accommodation for continuous periods of not more than 45 days ; • Which is leased with utilities and furnishings provided by the lessor; 	Taxable	First Schedule item 2(b)
3	<p>Accommodation in a:</p> <ul style="list-style-type: none"> i. House ii. Flat iii. Apartment iv. Room v. Caravan vi. Houseboat vii. Caravan site viii. Tent site ix. Camping site <p>Which constitute an asset including leased asset of a business undertaking or separately identifiable part of a business undertaking</p>	Taxable	First Schedule item 2(c)

	Condition <ul style="list-style-type: none"> Leases or holds for leasing as residential accommodation In the course of a business undertaking Regularly or normally leases or holds for lease as residential accommodation, for a continuous periods of not more than 45 days 		
4	Any other accommodation designated by the Minister by Regulations to be a commercial rental establishment other than the accommodation specified under item no. 5, 6 and 7 below.	Taxable	First schedule item (2d)
5	Accommodation in a: <ol style="list-style-type: none"> Boarding establishment or Hostel operated by any employer solely or mainly for the benefit of the employees of that employer or a related person of that employer or their dependants Condition The establishment or hostel is not operated for the purpose of making profits	Exempt	First schedule item 2(e)
6a	Accommodation in : <ol style="list-style-type: none"> A boarding establishment or a hostel operated by local authority A boarding establishment or a hostel operated by an educational establishment approved by the Minister for education Condition <ul style="list-style-type: none"> Not operated for the purpose of making profits 	Exempt	First schedule item 2(f)
6b	By implication: Accommodation in : <ol style="list-style-type: none"> A boarding establishment or a hostel operated by local authority A boarding establishment or a hostel operated by an educational establishment approved by the Minister for education Condition <ul style="list-style-type: none"> Being operated for the purpose of making profits 	Taxable	
6c	By implication: Accommodation in : <ol style="list-style-type: none"> A boarding establishment or a hostel operated by an educational establishment NOT approved by Minister for education 	Taxable	

Appendix 1

	Condition <ul style="list-style-type: none"> Whether or not for the purpose of making profits 		
7	Accommodation in a registered: <ul style="list-style-type: none"> i. Hospital ii. Maternity home iii. Nursing home iv. Clinic Refer to item no. 4 or first schedule item 2(d)	exempt	First schedule item 2 (g)