

# The Role of Value Added Tax (VAT) in Title Deed Fee Calculation and its Effect on the Base

## I. Introduction

Fees paid by individuals who benefit from public services as consideration for the advantages obtained from such services are referred to as “fees”, and these charges are regulated under Fees Law numbered 492 (“Fees Law”). Title deed and cadastral fees are governed by articles 57 to 70 of the Fees Law, and the title deed fee constitutes a significant financial burden in real estate transfer and acquisition transactions. For this reason, the accurate calculation of the title deed fee in accordance with the relevant legislation is of huge importance.

In the process of determining the base of the title deed fee, whether value added tax (“VAT”) should be included in the base is among the issues frequently debated in practice. This publication examines the determination of the base of the title deed fee and the role of VAT in such base within the framework of the relevant legislation and administrative regulations.

## II. Determination of the Base for Title Deed Fee

Title deed fee is a proportional type of fee calculated over the transfer and acquisition value of the real estate, which must be paid during real estate sale and transfer transactions. Pursuant to article 63 of the Fees Law, the base of the title deed fee is defined as the declared transfer and acquisition value, provided that it is not less than the property tax value.

Pursuant to paragraph article 63(4) of Law No. 492 on Fees Law:

*“In real estate transfers and acquisitions, the title deed and cadastral fee is calculated based on the declared transfer and acquisition value, provided that it is not less than the property tax value.”*

This provision has made it mandatory for the declared value in real estate transfer transactions to reflect the actual sale price. Otherwise, under article 63/4 of Law No. 492 on Fees, a penal assessment may be imposed based on the under-declared amount.

In this context, the accurate determination of the base of the title deed fee is of critical importance both for the protection of public revenues and for the prevention of informality.

### III. The Position of Value Added Tax in the Base of the Title Deed Fee

The determination of which elements are to be included in the base of the title deed fee is of practical importance. At this point, the status of VAT requires a separate assessment.

Pursuant to article 63 of the Fees Law in real estate transfer and acquisition transactions, the base of the title deed fee must be determined on an amount excluding VAT. Consequently, VAT should not be included in the base in the calculation of the title deed fee, and the fee must be assessed and paid solely on the transfer and acquisition value excluding VAT. Indeed, pursuant to article 63 of the Fees Law, the base of the title deed fee is limited to *“the declared transfer and acquisition value, provided that it is not less than the property tax value”* and such amount does not include VAT.

This approach has also been clearly and consistently set out in administrative regulations. Indeed, Internal Circular on the Fees Law No. 1997/5, dated 07.10.1997; stipulates that VAT shall not be taken into consideration in determining the base of the title deed fee. Furthermore, in the private ruling issued by the Revenue Administration dated 10.07.2008 and numbered B.07.1.GİB.0.02.63/6369-1123/69618, it is expressly stated that VAT shall not be included in the base of the title deed fee.

Accordingly, in the private ruling of the Revenue Administration dated 25.09.2024 and numbered E-97895701-140.04.01[2024/215]-1313662, it is also stated that, in immovable property transfers and deliveries, the base of the title deed fee must be determined on an amount excluding VAT.

In this context, even if the price in a VAT-liable real estate sale is determined as VAT-inclusive, the title deed fee shall be calculated based on the VAT-exclusive sale price. For instance, in a real estate sale conducted for 120.000,- TRY including VAT, the base for the title deed fee shall be 100.000,- TRY rather than 120.000,- TRY.

The fundamental rationale underlying this regulation is that the *“transfer price,”* which constitutes the subject matter of the title deed fee, corresponds to the net sale price excluding VAT. Furthermore, given that VAT, by its economic nature, does not form part of the sale price but rather constitutes an indirect tax remitted to the state, its inclusion in the base would give rise to a potential double taxation burden on the same economic transaction.

### IV. Conclusion

The accurate and fair determination of the base of the title deed fee is important both for preventing unnecessary financial burdens on taxpayers and for ensuring the lawful collection of public revenues.

Nevertheless, when the provisions of the current legislation and established administrative practice are assessed together, it becomes evident that VAT should not be included in the base of the title deed fee. Indeed, this approach has been consistently upheld in private rulings.

In conclusion, the current approach, whereby the base in the calculation of the title deed fee is determined on an amount excluding VAT constitutes an appropriate approach in terms of its legal basis and the consistency of administrative practice.

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