

Tax Talk Property - is it VATable?

VAT is a particularly taxing (!) subject at the best of times, but one of the most complicated areas it has to offer is the VAT status of property transactions.

These complications affect many differing circumstances, including the activities of property developers, businesses with trading premises and those simply investing in residential or commercial properties. What follows here is a simplified guide indicating the VAT treatment of property supplies.

Supplies of land and buildings

The basic starting point is that supplies of land and buildings are usually exempt from VAT. There are a number of exceptions but the main ones are:

- 1) The freehold disposal of a new commercial building within three years of completion is standard rated.
- 2) The first supply of the freehold (or a lease of more than 21 years) by the person constructing residential property is zero-rated. Zero-rating also applies to supplies of certain types of charitable purpose buildings and conversions of previously non-residential property.

Opting to Tax

A developer making a supply of a standard rated

or zero rated property will be able to recover the input VAT incurred on the related development costs and overheads. However, it is not possible to recover any input VAT on costs relating to exempt supplies. Examples of the problems this causes are:

- 1) A business has recovered the VAT it was charged when it bought its trading premises. If the property is now sold on an exempt basis then this may cause the previously recovered input VAT to become irrecoverable.
- 2) A property investor has been charged VAT on the purchase of commercial property. The rent that is charged to the tenant is an exempt supply so the VAT on the property acquisition is not recoverable.

Fortunately, this problem can be avoided for non-residential property if the supplier elects to waive the usual VAT exemption. This is known as 'opting to tax'. This election ensures the supply of the building will be standard-rated, preserving the recovery of input tax. This does, of course, mean that VAT must be charged on the onward sale in due course, so it is important to give consideration to the VAT status of

potential purchasers. The price they will be willing to pay will depend on whether they can recover the VAT.

Supplies of Construction Services

The supply of most construction services is standard-rated. However, there are exceptions for which the services (including the related building materials) are either zero-rated or subject to a reduced rate of VAT:

- 1) Construction services supplied in relation to the construction of residential property are zero-rated (the customer must provide a certificate specifying the qualifying purpose).
- 2) Construction services supplied for conversion of buildings to residential use or to change the number of dwellings in a building may qualify for a reduced rate of VAT of 5% (this will be advantageous if the VAT cannot be recovered).

It is possible to see from this very brief overview that the VAT status of property supplies varies significantly according to the circumstances. It is a subject with many complexities and it is advisable to seek professional advice to ensure that unexpected VAT banana skins are avoided. If you have any VAT issues that you would like to be reviewed, please contact Charles Green on **020 7022 0050**.