

VAT Alert

20 June 2011

VAT relief is in the pipeline for temporary rentals by property developers

Property developers, who have no choice but to temporarily rent out their fixed properties due to the weak fixed property selling market, can look forward to temporary VAT relief.

VAT implications of fixed property transactions

As property developers must charge output VAT on the sale of fixed properties developed by them, they may also deduct the VAT paid on building and construction costs as input VAT. Residential property lessors, on the other hand, do not charge output VAT, but may also not deduct input VAT.

If a property developer has developed a property for purposes of selling it (subject to 14% VAT), but subsequently makes a business decision to rather rent out the property (which will be exempt from VAT), he must make a change of use adjustment by accounting for output VAT on the market value of the property.



Temporary rentals

Due to the weak property market, many property developers cannot sell their properties and are forced to temporarily rent out the properties in an attempt to obtain cash inflows to cover their costs.

The view is held that a change of use adjustment is not required where the ultimate purpose remains to sell the

property at a commercially viable price, but the property is merely temporarily rented out. SARS, however, requires property developers to make the change of use adjustment and account for output VAT in such a case.

Proposed relief

SARS has now realised that, to expect of developers to make a VAT change in use adjustment when renting a property only

temporarily, could force certain VAT developers into insolvency.

Draft legislation, therefore, proposes that temporary relief (until 2015) be granted to developers who rent residential fixed properties for a maximum period of 36 months before sale. If the vendor rents the property beyond the 36-month period, output VAT will be payable on the market value thereof at the 36-month cut-off

date. This will apply to any change in use (i.e. temporary rental) on or after the date of promulgation of the Amendment Act, but before 1 January 2015. SARS has stated that this is meant to be merely a short-term solution and that once all issues have been fully considered; a permanent solution will be introduced.

The proposed relief does not address the predicament of property developers who have

already let their properties prior to the amendment coming into effect or have had SARS force them to account for the change in use. Those vendors would have to carefully consider their options to prevent unforeseen VAT costs from jeopardising the viability of their developments.

Our team of indirect tax specialists are available to assist in this regard. Your contacts are listed below.

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