

VAT issues in Cyprus relating to investment in Real Estate

Kyriakos Fili
Partner, VAT



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The purpose of this presentation

Value added tax (VAT) can impact almost every transaction in the conduct of local and international business. It constitutes a key factor in managing the cashflows of a business and in many cases a real bottom-line cost.

The complexity of VAT legislation is of growing relevance to businesses as Governments are increasingly shifting towards indirect taxes as a means of revenue on a global level. Hence, the effective management of VAT and other indirect taxes is essential.

Therefore, it is highly important to ensure that our clients fully comply with the requirements of the VAT Law and regulations.

Taxable person

Taxable Person' is

- every person who is registered

OR

- required to be registered under the VAT Law 95(1)/2000

Section 3 => A taxable person should mean any person who carries out a business

'Business' is

- any economic activity
- carried out independently at any place
- whatever the purpose or results of that activity

Economic activity

'Economic Activities' consist of

- activities of producers, traders or persons supplying services, including mining and agricultural activities
- activities of the professionals or similar with those activities
- the exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis
- provision by a club, association or organization (for a subscription or other consideration) of the facilities or advantages available to its members
- admission, for a consideration, of persons to any premises.

Taxable transactions and VAT rates

VAT rates

Main Rule: All taxable transactions are subject to the standard rate of VAT 19% unless exempt or subject to the reduced rates.

By exclusion we deduce whether a taxable transaction is exempt or subject to one of the reduced rates (5% or 9%). If none of the above apply then the transaction will be subject to the standard rate, currently 19%.

For immovable property transactions we would thus need to consider the following parts of the Cyprus VAT Law:

- Eighth Schedule for related exemptions
- Fifth Schedule to confirm whether we are allowed the reduced rate of 5% for either renovation services or new primary residence
- Twelfth Schedule for holiday accommodation subject to the reduced rate of 9%.

If none of the above apply, then your transaction is subject to VAT at the standard rate of 19%.

VAT on property sale

VAT on property sale

Property sale (Selling property under freehold terms)

- The sale of a property is subject to VAT when the property is sold **NEW**, before it has been used in any manner, and its application for building permit has been submitted after 01/05/2004.
- The standard rate (currently at 19%) will apply, unless
- The buyer is an eligible individual who has applied for and received approval by the VAT Authorities for the reduced rate of 5%. Only purchases by eligible individuals may be subject to the reduced rate of 5%.
- Corporate buyers are not eligible to apply for the reduced rate.
- The sale of a used property is exempt from VAT.

VAT on property sale

Property sale (Selling property under freehold terms)

Sale of new buildings	VAT Rate
Commercial Buildings	19%
Residential Buildings – not primary and permanent residence	19%
Residential Buildings - Primary and permanent residence	5% (approval by the VAT Authorities is required)

VAT on property sale

Reduced Rate of 5% on acquisition or construction of residences for use as the primary and permanent place of residence

- Residence must be used as primary and permanent residence for the next 10 years.
- Claimant must be over 18 years old and include residents of Cyprus, EU and non-EU Member States, provided that the residence will be used as their primary and permanent place of residence in the Republic.
- Reduced rate applies for first 200 sqm as determined from the building coefficient Standard rate applies on remaining sqm.
- The reduced rate is imposed only after obtaining an approval from the Tax Department. The application must be submitted before the applicants have moved in the dwelling.

VAT on property sale

Reduced Rate of 5 on acquisition or construction of residences for use as the primary and permanent place of residence

- If the beneficiary person ceases to use the dwelling as a place of residence earlier than 10 years he shall notify the Tax Department and pay the difference between the amount of tax resulting from the application of the reduced rate 5% and the standard rate as applicable on the date of supply or construction of the dwelling (now 19%) which accounts for the period he has not used the dwelling for the purposes of residency (except in case of death of the beneficiary person or in case of a transfer by the person entitled to any adult child, as long as the child is not a beneficiary person at the time of the transfer).
- Persons who have already acquired a residence on which the 5% rate was imposed, can re apply and acquire a new residence on which the 5% rate will be imposed (after the 10 y or before subject to paying the VAT difference).

VAT on property sale

Reduced Rate of 5% on acquisition or construction of residences for use as the primary and permanent place of residence

- The Government of Cyprus announced recently that it intends to revise usage of a 5% VAT rate on new real estate.
- The proposed VAT law, will impact the characteristics of properties for which individuals will be allowed to apply for the reduced VAT rate of 5% for acquiring or constructing a new primary residence in Cyprus.
- The Ministry of Finance agreed to postpone the vote on the adoption of new amendments to the bill and continue consultations with the Scientific and Technical Chamber of Cyprus.

VAT on Undeveloped Building Land

VAT on Undeveloped Building Land

As of 02 January 2018 the sale of undeveloped building land (“UBL”) is subject to VAT at the standard rate when supplied in the course of business.

The definition of UBL does not include land which is in a farming zone, zone outside of development area or environmental, archeological or agricultural zone.

The interpretation of the term “business activity” and whether the transaction falls within the meaning of carrying out an activity for commercial purposes, will be determined based on the facts of each case separately.

VAT on Undeveloped Building Land

The standard VAT rate of 19% will be imposed in all of the following cases where a person is performing a transaction in the course of an economic activity:

1. Supply of building land located in specific zones i.e. industrial zone, tourist area, tourist facilities, hotels, organized apartments, holiday houses etc.
2. Supply of more than one piece of land from a person.
3. Supply of land by the administrator of property of a deceased person.
4. Supply of a plot following the separation of a land.
5. Supply of land by a Self-employed person who is VAT registered and who acquires the land from his profits.

VAT on Undeveloped Building Land

Physical person not engaged in economic activities - No VAT will be imposed in the following cases:

1. Supply of more than one piece of land which are next to each other and are sold as a single supply to a single buyer, except if they fall under the zones stated in point (1) above.
2. Supply of piece or pieces of land given in consideration to the company which perform the separation of the land in order to cover the separation expenses incurred.
3. Supply of the last or the only piece of land which is in the possession of the seller.
4. Supply of a piece of land by a taxable person (self – employed individual) who is VAT registered and owns the land for personal purpose (not for commercial purpose), except if the supply consists of supply of more than 1 piece of land.

VAT on Rents

VAT on Rents

As from 13 November 2017 **new** rental contracts are subject to the standard rate of VAT if the below conditions are met:

- Rental is for a non-residential property, to be used as part of the tenant's business activities, and
- The tenant is a taxable person with at least 90% of its taxable transactions being subject to VAT or exempt with the right of deduction.

Rental of residential property to be used as such continues to be exempt

- Applying VAT is not an option but an obligation.

VAT on Rents

Applying VAT is not an option but an obligation.

- If the contact meets the conditions provided by the law, then it is an obligation of the lessor to apply VAT at the applicable standard rate.
- Obligation to register arises when the registration threshold of €15.600 is exceeded.

Option to apply for non-taxation/exemption

- The lessor has the right to opt not to charge VAT on a lease transaction under certain conditions and must notify the tax commissioner accordingly via form TD1220.
- The lessor then will be unable to recover any input VAT incurred in carrying out the leasing activity.
- The exemption is binding for as long the owner remains the same.

VAT on Long-Term leases

VAT on Rents

Applying VAT is not an option but an obligation.

- As of 01/01/2019 selling a property under leasehold terms has been legally equated to the sale of a property under freehold terms.
- This apply to both the leasehold acquisition of undeveloped building land which may be subject to VAT as well as leasehold acquisition of property before its first use which may be subject to VAT.
- In the latter case if the buyer is allowed to apply for and granted the permission for the reduced rate of 5% for a primary residence the same is applicable for leasehold as is for freehold.
- Long term leases seen in Cyprus are on projects like Limassol Marina and some of the towers constructed in Limassol. They are usually for a period of over 60years and confer on the buyer rights of ownership which can be lodged at the Land Registry.

VAT on Short-Term Rentals/Tourist Accommodation

Short Term Rentals/Tourist Accommodation

Making available a residential property on a nightly basis to tourists with services replicating the offerings of a hotel is a supply of accommodation subject to VAT at the reduced rate of 9%.

Such rental would be short term (i.e. up to a month long rental) and is usually agreed on a nightly fee basis. The rental will be accompanied by other services akin to those of holiday accommodation, i.e. it would be expected that the accommodation would be furnished, utility consumption is included, linen and cleaning services are provided along with services such as Wi-Fi.

We need to be careful to distinguish between making a property available to tourists directly and making available a property to a manager who will then in turn make it available to tourists.

One is a supply of tourist accommodation subject to VAT at the reduced rate of 9%, the other could be a license to use the property which is subject to the standard rate of 19%.

Input VAT

Input VAT

VAT on purchase of property and expense transactions

Recovery of Input VAT

- The right of deduction of input VAT is determined by the person's supplies as well as the way the goods or services that were received are used.
- Taxable persons are allowed to recover input VAT they incurred on a property which is used to generate income which is subject to VAT (output VAT at either the standard or one of the reduced rates).
- Any input VAT incurred on a property used to generate exempt rental income which is not subject to VAT is not recoverable and remains a cost for the taxable person.

Input VAT

VAT on purchase of property and expense transactions

Recovery of Input VAT

- VAT expenditure is only deductible up to the proportion of the asset's use for business purposes.
- Cyprus applies this principle to immovable, movable property, as well as to intangible assets.
- Input VAT is also available for recovery for the period before registration:
 - three years for goods (unless the goods were consumed before the date of registration)
 - six months for services.

Domestic Reverse Charge

Domestic Reverse charge – 11B

Article 11B provisions cover construction services to taxable persons:

- Services together with goods subject to 19% reverse charge:
 - supplies in the course of construction
 - alterations – demolition
 - improvement or maintenance of a building
 - civil engineering work.
- Services deemed as taxable supplies of the recipient as long as the recipient acquires the services in the course or furtherance of the business carried on by him.
- the value of the supply is determined on the basis that no VAT is chargeable on the supply.

Domestic Reverse charge – 11B

Article 11B provisions cover construction services to taxable persons:

Construction services subject to 19% VAT under reverse charge

- Supplier does not charge VAT on issued invoices stating ‘supply is subject to 11B’
- Taxable person receiving services must self-account for VAT

Right For Recovery:

- Recoverable VAT to the extent that construction services relate to VATable activities
- Input VAT pro-rata if used for both VATable and exempt supplies.

Capital Goods Scheme

Capital Goods Scheme

The capital goods scheme provides that the input VAT on acquisition/development of an immovable property is recovered on an estimated basis at the point of first use of the property.

The basic mechanics of CGS would work as follows. At the time of purchasing each property, the owner should consider what are its intentions of use for each property. This would then determine whether the income to be earned by each property would be subject to VAT or be exempt and thus whether the owner has the right to recover the input VAT incurred on the purchase of each property or not.

This intention will form the basis of recovery (or not) of the input VAT incurred on the purchase in the relevant VAT return where the input VAT falls.

From the year of first use the owner has a 10 year of adjustment period where an adjustment to the initial input VAT is made on an annual basis where there is a change in use.

The CGS applies on a per property basis and not on an aggregated basis on all properties.

Questions?

How can Grant Thornton Cyprus help?

We work closely with our clients, with their associates, and with our network of professionals, and propose solutions and develop strategies that will benefit our clients.

A) VAT Advisory Services

- VAT planning strategies - for example VAT review of proposed business activities or intended application of operational models;
- Pre-execution VAT review of agreements – Review of draft agreements prior to finalization to identify and mitigate embedded VAT risks;
- Provision of professional opinion in relation to daily business with high level of practical and sector-oriented approach for national and cross-border issues with coordination of the colleagues in the concerned countries worldwide;
- Provision of advice on specific situations or issues including cash-flow optimization, intercompany supplies, business restructuring, holding companies, optimization/application of partial exemption rules, input VAT recovery and place of supply of goods/services;
- Inhouse workshops and training courses, client-designed for the typical business cases and qualifications of the participating employees;
- Conduct of internal VAT due diligence aimed at identifying VAT risks and proposing actions to address them;
- Impact assessment and advise in relation to changes in local or European VAT legislation;
- Representation with local Tax Authorities including provision of support in VAT audits, preparation of appeals to VAT assessments and negotiation with the VAT Authorities on points of legal uncertainty;
- Preparation and submission of VAT rulings to the Tax Department on points of legal interpretation.

How Grant Thornton Cyprus can help?

VAT compliance is often overlooked by businesses. We consider the subject of compliance to be very important because through the compliance process a business is able to check the correct and efficient application of VAT legislation. The purpose is to constantly monitor whether there is further scope for VAT planning, whilst ensuring that the business is VAT compliant avoiding high penalties and legal actions.

B) VAT Compliance Services

- registration / Deregistration with Cyprus VAT authorities as well as with the VAT authorities in other EU Member States; Group registration with Cyprus VAT authorities
- preparation and filing of VAT returns in Cyprus and in other EU Member States
- filing of VAT refunds in Cyprus and the other EU Member States
- registration and Advice on the Use of One Stop Shop (OSS)
- registration, preparation and submission of VIES declarations
- monitoring of transactions to ascertain whether scope exists for further VAT planning
- negotiations with national and international VAT Authorities.

We can help you overcome the challenges and take control of indirect tax, offering a wide range of services to support your business.

Thank you!

Kyriakos Fili

T 22600000

E Kyriakos.Fili@cy.gt.com