

vat news

Autumn 2007 - Issue 3

Land & property special issue



We know there is a huge interest in this topic, it is highly complex, involves large sums of money and embraces all of the VAT rates.

There are a number of critical VAT elements to consider on property matters but underpinning them is one simple mantra "AWARENESS IS ALL". Once a deal has been done any VAT mistakes can be extremely difficult and time consuming to unpick – even for us! Therefore, we can't stress enough how important it is to get it right beforehand – planning is all.

Losses from inadequate VAT planning will directly affect the bottom line profit of a development. The property climate is becoming less certain – profit margins may be reducing and losing VAT can be a critical factor in determining whether an investment actually makes money.

Remember we are always at the end of a phone to give you re-assurance and advice on any aspect of a client's property problem.

Transfer Of a Going Concern on Commercial Property

The benefits of a TOGC are that no VAT is physically payable by the purchaser, saving cash flow. This also means an actual saving of SDLT since SDLT is payable on the VAT inclusive figure if VAT is payable.

It is a very good planning point therefore to see whether a property transaction already is or could be made into a TOGC.

TOGC Conditions

It is worth noting however that there are a number of conditions that need to be met and these include:

- If the vendor has opted to tax, the purchaser's option needs to be effective from the date of transfer
- There needs to be a transfer of a property business – there are a number of scenarios that are accepted as being a 'business' even when on face value this is not the case and we can provide further details on these

- The purchaser must confirm that their option will remain effective after completion

TOGC Warranties

- If you are acting for the vendor, you must ensure that appropriate warranties are in place and seek advice if necessary since although the purchaser gains the benefit, the vendor takes the risk. It will be the vendor who will be not be charging VAT on the transaction – if they get it wrong they will be the ones incurring VAT, interest (although this should not be levied) & penalties from HMRC

Capital Goods Scheme

Remember, usage of the property requires ongoing consideration since any remaining Capital Goods Scheme adjustments are transferred to the purchaser – it is important the purchaser identifies how much VAT was incurred and how many years are left in the CGS.

We are specialists in VAT relating to:-

- Land & Property
- Charities
- International VAT
- Not for Profit
- General VAT Queries
- Import / Export (customs)

Our range of services include:-

- Planning
- Assessment Reviews
- General Business Reviews
- Investigations
- Transactional Advice
- Customs Queries

To see how we can help you call

0870 420 8971

If Land & Property is a special interest of yours we will be happy to send you additional email updates. Register for these by emailing enquiries@thevatpeople.co.uk and mark your email "Property VAT"

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TOGC Case Study

We acted recently for a purchaser who wanted to avoid having to fund VAT on a £17M purchase which would also involve additional SDLT on £2.975M VAT.

We managed the whole process of the transaction to ensure TOGC status, including all dealings with HMRC. This was a highly complex transaction given that the deal was at short notice and involved the

vendor not accepting the TOGC status until all papers were produced and in the interim asking for the VAT to be paid into an escrow account.

It is therefore worthwhile planning even the basics and seeking assistance to make sure this occurs since even when a TOGC looks likely, it needs to be managed properly.

A TOGC is a matter of fact and is an important planning element in any property transaction – if in doubt seek advice. Remember we are here to help clients maximise their VAT position and avoid unnecessary losses occurring.

Residential Conversions

With many developers now using a variety of different buildings for conversion to residential, the VAT implications can be significant.

Being Charged VAT / Conversion Work

1 Prior to undertaking a residential development on an existing building, consider the VAT consequences – just because the development work may result in 'new flats' within a building, does not necessarily mean that their sale will be zero rated and all VAT recoverable.

2 Consider whether the 5% reduced rate is applicable to a contractor's charges. The 5% rate applies where the number of self-contained dwellings in a building changes – for example, a barn conversion will qualify as the number of dwellings changes from nil to at least one. A house converted to 4 flats also qualifies as the number of dwellings has changed. However, where a house containing 4 flats is developed and refurbished but the number of flats remains the same, 5% is not applicable.

3 Remember, 5% only applies to services provided by a contractor undertaking the conversion work and any builders' materials they supply and fit.

4 Therefore, if planning a development to be undertaken in-house, it is worth planning to see whether a contractor (even if it is through an associated business set up for the occasion) can undertake the works – this will minimise the VAT from 17.5% to 5%.

5 Be aware of the self-supply charge for works undertaken in-house which exceed £100K.

If the VAT charges are irrecoverable, the use of 5% reduced rate can seriously improve profit.

Consider therefore the intended use of a property, will a taxable supply be made when the property is converted? If not can 5% be gained or any VAT charge removed?

So for clients redeveloping buildings, planning is key and remember we are at the end of the phone!



Can we help you?

Remember that our team are at the end of a phone ready to help you with any of your VAT or Customs related queries. As a bunch of seasoned ex-VAT people we are the best source of advice around. Just call our helpline on

0870 420 8971

or email any of our directors personally

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The VAT People Network

Remember that only members of The VAT People Network receive an exclusive bi-monthly **Technical Update**. The material in this bulletin is not available anywhere else. It contains useful reminders of new VAT legislation, news of recent rulings, and reminders of opportunities and threats within different industry sectors.

If you would like to join the network and start receiving the Technical Update simply email us on enquiries@thevatpeople.co.uk and we will send you a simple online form to complete. **Membership of the Network is free.**

Stop Press

Is your firm a member of Charter Group? If so please come and introduce yourselves at their annual conference – we are delighted to have been invited to exhibit and look forward to meeting all the members at Breadsall Priory in November. For more information check on www.chartergroup.co.uk

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VAT and Customs Duties are complex and ever changing and the VAT liability of transactions can vary significantly depending on the circumstances. Therefore whilst every effort has been made to ensure the accuracy of the information contained in the newsletter, you should not act upon it without seeking professional advice.