

VAT ON IMMOVEABLE PROPERTY TRANSACTIONS

PRESENTED BY:

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Liability to VAT- Section 9

VAT is chargeable on any supply of goods or services made in Mauritius, where it is a taxable supply, made by a taxable person in the course or furtherance of any business carried by them.

➤ Meaning of supply- Section 4

- In the case of goods, transfer for a consideration of the right to dispose of the goods as the owner
- In the case of services, the performance of services for a consideration
- Anything which is not a supply of goods, but is done for a consideration, is a supply of services.

➤ Taxable supply- Section 2

A supply of goods in Mauritius or a supply of services performed or utilised in Mauritius; and

- a) Includes a zero-rated supply; but
- b) Does not include an exempt supply

➤ Taxable person- Section 2

a) Any person who is required to be registered under section 15, and

b) Includes a registered person

a) Meaning of Business (Section 3)

- i. Any trade, commerce or manufacture, profession, vocation or occupation; or
- ii. Any other activity, in the nature of trade, commerce or manufacture, profession, vocation or occupation; and

b) Includes any activity carried on by a person, whether or not for gains or profit and which involves in whole or in part the supply of goods or services to other persons for a consideration.

- Persons making taxable supplies above the prescribed threshold/specified professionals have to register for VAT
- A VAT registered person charges VAT on his taxable supplies
- He in turn is charged VAT on taxable supplies made to him
- At the end of every taxable period (month/quarter) he submits a return declaring, inter alia,
 - the output tax (the tax charged on his taxable supplies)
 - the credit for input tax
 - the tax payable/excess carried forward

- A VAT registered person may take in his return, as a credit against his output tax, the amount of allowable input tax
- Specifically disallowed is, inter alia,
 - Input tax in respect of goods & services used to make an exempt supply.

APPORTIONMENT OF INPUT TAX

- Where a person uses goods & services to make both taxable supplies and exempt supplies, he has to
 - apportion the relevant input tax in respect of the goods and services used
 - Take credit for the input tax attributable to the taxable supplies only
- The basis of apportionment is usually turnover.

$$\text{Credit} = \text{Input Tax} \times \frac{\text{Turnover of Taxable Supplies}}{\text{Turnover of Total Supplies}}$$

- Where the turnover basis is inappropriate, an alternative basis may be used (e.g floor area)

Where the credit for input tax exceeds the output tax in any taxable period, the excess may

- Be carried forward to the next taxable period; or
- Claimed as repayment on the submission of the VAT return (if certain conditions are met).

- The excess includes input tax amounting to more than Rs 100,000 on capital goods.
- The excess is in respect of input tax attributable to zero-rated supplies.

➤ First Schedule to VAT Act

Item 46

The renting of, or other grant of the right to use, accommodation in a building used predominantly as a place of residence of any person and his family, if the period of accommodation for a continuous term exceeds 90 days.

Item 47

Subject to item 48, the grant, assignment or surrender of any interest in or right over land or any license to occupy land.

Item 48

The sale or transfer of an immoveable property, a building or part of a building, apartment, flat or tenement-

- a) For residential purposes
- b) For any other purposes, except land with any building, apartment, flat or tenement together with any interest in or right over land sold by a VAT registered property developer to a VAT registered person.

EXEMPT BODIES OF PERSONS

- Any body or person is exempted from payment of VAT on certain goods & services if he falls within the Ninth Schedule.
- The goods/services on which that person is exempted are mentioned in the Schedule.

Item 11(a)

Person approved by TEC as a person engaged in the provision of Tertiary Education

- Construction of purpose-built building for the provision of tertiary education.

Item 11(b)

Person engaged in the construction of a purpose-built building for the provision of tertiary education to be leased exclusively to a person approved by TEC

- Construction of purpose-built building to be leased exclusively to a person approved by TEC.

Item 13

Person licensed/to be licensed as-

- A private hospital
 - A nursing home
 - A residential care home
 - registered with the BOI
- Construction of purpose-built building for a private hospital, nursing home or residential care home.

Item 14

NHDC/Housing development trust or other non-profit making vehicle carrying on construction of Social Housing registered with NEF

– Social Housing

CLAWBACK OF INPUT TAX (Section 21)

- Where a VAT registered person has benefitted from input tax on immovable property, forming part of his fixed assets
- Before the expiry of 20 years, he disposes of the property or ceases to carry on business or is required to be deregistered.

CLAWBACK OF INPUT TAX (Section 21)

- He has to pay back part of the input tax taken relating to the unexpired portion of the 20 years period.
- Where the sale is made to a VAT registered person, the seller is deemed to have made a taxable supply and charged VAT equivalent to the input tax to be clawed back
- The VAT charged on the supply is available to the purchaser for input tax credit

REFUND OF VAT TO PERSONS ON RESIDENTIAL BUILDING, HOUSE OR APARTMENT

- Where a person constructs a residential building or purchases a residential apartment or house from property developer
- He may make a claim for a refund of VAT.
- Applicable conditions:
 - Person or spouse must be a citizen of Mauritius above 18 years.
 - Cost of construction/acquisition < Rs 4M
 - Annual net income of spouses < Rs 2M
 - Applicant/Spouse shall be the owner/co-owner of the residential building
 - Construction must be completed before 2020.
 - Refund shall not exceed Rs 500,000.
 - The property is not on Pas Geometriques or acquired under REDS, PDS, IHS or Smart City

VAT INCENTIVES UNDER THE SMART CITY SCHEME

- Provided in Regulations under Investment Promotion Act
- Smart City Company (S.C.C) or Smart City Developer (S.C.D) shall be deemed to be registered for VAT purposes in order to enable it to fully recover VAT paid on buildings and capital goods.
- Where the S.C.C or S.C.D submits a VAT return and the excess includes input tax on buildings and capital goods, the company may, in that return, make a claim for the repayment of the amount of input tax in respect of the buildings & capital goods.

What are the VAT implications of the following transactions?

- a) A property developer is involved in a 'morcellement' project, whereby he carries out all the infrastructural works, parcels the land and sells all the plots.

b)

- A VAT registered property developer purchases a plot of land, constructs thereon a building comprising of the following-
 - Commercial/office lots on the ground floor
 - residential apartments on the remaining floors
- Part of the commercial/office lots will be rented and part will be sold. 2 of the 7 eventual purchasers are VAT registered.
- The residential apartments will all be sold.

- c) An attorney purchases an office lot from a property developer. After 4 years, he sells the property to-
- i. another attorney
 - ii. A medical practitioner

THANK YOU