

Guidance regarding the application of the 5% reduced VAT rate on the acquisition or construction of a property to be used as the primary and permanent place of residence



In brief

On 28 November 2023, VAT circular number 11/2023 was issued by the Tax Commissioner, with a view to provide important clarifications and guidance regarding the application of the reduced rate 5% VAT on the acquisition or construction of a property in Cyprus to be used as the primary and permanent residence.

The circular addresses the following aspects:

1. Instances where the reduced VAT rate 5% is not applicable
2. The application of the reduced VAT rate 5%
3. Transitional provisions
4. Acquisition of a new residence before the conclusion of the ten-year term
5. Legal provisions when the beneficiary ceases to use the residence as a permanent place of residence
6. Instances where the beneficiary does not have to return VAT upon ceasing to use the residence as a permanent place of residence.

In detail

Application of the 5% reduced VAT rate

The reduced rate of 5% is applicable for the first 130 square meters of a buildable area, provided that its value does not exceed €350,000.

In cases where:

- a) The value is up to €350,000, the reduced VAT rate is applied proportionally to the square meters of the buildable area when it is over 130 square meters and up to 190 square meters.
- b) The value ranges from €350,001 to €475,000, the reduced VAT rate is applied to the value of up to €350,000, proportionate to the square meters of the buildable area when it is over 130 meters and up to 190 square meters.

In case of a person with disability, the reduced rate of 5% VAT is applied for the first 190 square meters of a buildable residential area, irrespective of the total buildable area.

In case of large families (with at least four children), the total area of the residence is increased by 15 square meters for each additional child beyond three, both for construction and acquisition of the residence. However, the increase does not affect the threshold of €350,000 and €475,000 on the value of the properties.

The Circular lists a number of examples for calculating the reduced rate under various scenarios.

Instances where the 5% reduced VAT rate is not applicable

The reduced rate of 5% does not apply to residences of which:

- a) The total buildable area exceeds 190 square meters (or as increased for large families), with the exception of persons with disabilities and/or
- b) The total value of the residence exceeds €475,000

Subsequently, the standard rate of 19% is applicable on the purchase price or construction value of the residence.

Transitional provisions

As per the transitional provisions of the Law amendment of 16 June 2023, the reduced rate of 5% is applicable on the first 200 square meters of the buildable area if a duly completed responsible declaration for the imposition of the 5% reduced rate is submitted within a period of three years from 16 June 2023 **and** provided that:

- a) A planning permit was issued by 31 October 2023, or
- b) An application for a planning permit was submitted to the competent authority by 31 October 2023.

For urban planning applications submitted by 31 October 2023, the following apply:

- a) Where an application for a planning permit has been submitted by 31 October 2023, so as to receive a five-digit identification number from the IPPODAMOS system, the application is deemed to have been submitted for VAT purposes.
- b) If an application for a planning permit is submitted by 31 October 2023, and, upon receipt of the five-digit number and completing the document check, it is found that the necessary documents and plans are missing, an immediate refusal of receipt will be issued. In such instances, the applicant must submit a new application. In such a case, the new application is likely to be submitted after the deadline of 31 October 2023.
- c) If following the submission of the planning permit, the receipt of a five-digit number and the completion of the document check, an assessment is conducted during which issues are identified, and it is determined that the application is not consistent with the provisions of the Development Plan and Regulations, the application will be rejected.

If the Notice of Receipt of Town Planning Application which is issued based on an application submitted by 31 October 2023, aligns with the Development Plan and Regulations of the Department of Town Planning and Housing, it can be used by a subsequent purchaser of the plot associated with the urban planning permit. Accordingly, the person must submit a responsible declaration to qualify for the 5% reduced rate when purchasing or constructing a residence.

Acquisition of an additional residence before the conclusion of the ten-year term

According to the provisions of the VAT Law, a person cannot acquire another residence subject to the 5% reduced rate prior to the expiration of a ten year timeframe. This right can only be exercised if the person pays the difference between the reduced and standard VAT rate on the value of the residence, using the rates applicable at the time of acquiring or constructing the residence. This payment is proportionate to the remaining number of years for which the residence was not used by the owner as his main residence within the 10-year period. This period is calculated in calendar months.

If an individual submits a new responsible declaration to acquire or construct another residence for primary residency within 10 years, the period in which it is considered that he has not used the residence starts from the date of this declaration and extends for up to 24 months. The 24 month period is considered sufficient for the person to obtain possession of the new property for which the new responsible declaration has been submitted.

The submission of the new responsible declaration is permitted at any point during the residence's construction or in the case of acquisition, before the beneficiary takes possession.

Legal provisions when the beneficiary ceases to use the residence as a permanent place of residence

If a beneficiary ceases to use the residence as their primary and permanent place of residence within 10 years, they are required to notify the Registrar within 30 days from the date on which he ceased to use it as a place of residence.

Additionally, they must pay the difference between the reduced and standard VAT rate as indicated above, **unless** the cessation is due to the beneficiary's death or a transfer to one of their adult children, provided that the child is a beneficiary at the time of the transfer and has not exercised the right to acquire a property with the reduced rate 5% themselves (in which case refer to the below).

Instances where the beneficiary does not have to return VAT upon ceasing to use the residence as a permanent place of residence.

The beneficiary does not have to return the VAT difference, if he transfers the ownership of his residence to his adult child, who is a beneficiary and did not benefit from the imposition of the reduced VAT rate for the acquisition or construction of another residence within the last 10 years.

Where the adult child has benefited from the imposition of the reduced rate on another residence and does not intend to use the property to be transferred as his primary residence, then the parent must pay the difference as indicated above. In the event that the adult child intends to start using the property transferred by the parent as his primary residence and will cease to use his own as his primary residence, the adult child will be obliged to pay the difference for his own residence.

Furthermore, it is not required to pay the difference in VAT in the event of death of the beneficiary. That is, the heir inheriting the residence does not have to pay VAT for the residence he inherited, regardless of whether the heir has previously benefited from the 5% reduced VAT rate for acquiring or constructing another residence within the last 10 years.

Takeaway

The Circular offers additional guidance regarding the application of the 5% reduced VAT rate on the acquisition or construction of a property to be used as the primary and permanent residence. Based on the above, the amendments to the VAT Law significantly impact property developers constructing and selling properties and individuals wishing to acquire a primary residence.

Our dedicated team of VAT specialists can assist in assessing whether an individual is eligible for the 5% reduced VAT rate on a primary and permanent residence, in the application and obtainment of the 5% reduced VAT rate based on the new conditions and /or the obligation to repay any VAT in case the use as primary residence changes before the lapse of a ten year period.

We can also assist businesses in determining the impact of the changes in the Law on the compliance requirements in respect to charging the reduced rate of VAT, application of the transitional provisions and record keeping obligations.



Let's Talk!

For a deeper discussion of how this issue might affect your business, please contact:

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