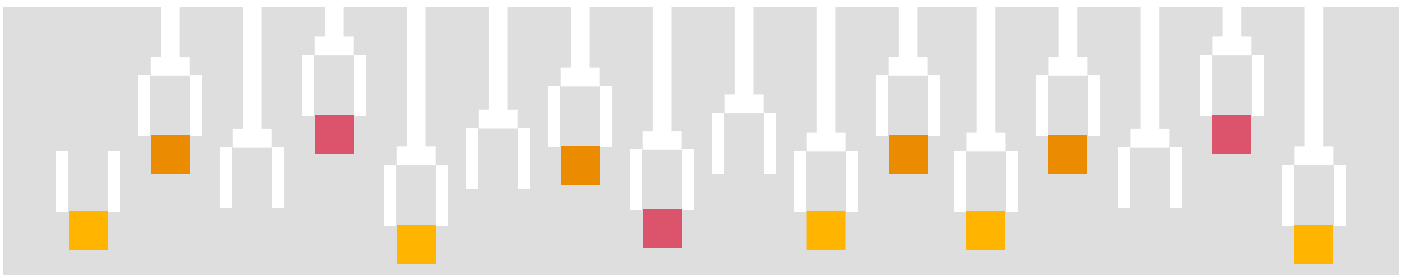


New amendment to the VAT Law on the application of 5% VAT on primary and permanent residence



In brief

On 8 June 2023, the House of Representatives passed the amending bill for the application of the reduced VAT rate of 5% on primary residence. The amendments set new conditions for the 5% VAT on primary and permanent residence, transitional provisions and new conditions for the right to re-apply for the 5% VAT on primary residence within 10 years. The provisions of the amending bill are applicable from 16 June 2023.

In detail

1. Conditions on the application of 5% VAT on primary residence

According to the new provisions of the VAT Law (95(I)/2000) as amended (hereinafter “the VAT Law”), the reduced VAT rate of 5% will apply to the first 130 sqm of a primary residence, up to a value of €350,000, provided that the total transaction value does not exceed €475,000 and the total buildable area does not exceed 190 sqm.

As an exception to the above, individuals with disabilities can apply for the reduced VAT rate of 5% on the first 190 sq.m. of buildable area irrespective of the total buildable area of the property. Individuals that are eligible for the 5% VAT under this provision must fall within the definition of “individuals with disabilities” as newly defined in the VAT Law.

The transaction value per square meter may be revised by the Tax Commissioner, after the decision of the Council of Ministers.

2. Transitional provision

A transitional period is also provided during which the proposed amendments to the VAT Law, with the exception of the amendments concerning the re-application for the 5% VAT within the 10 year period (refer to paragraph 3 below), will not apply in cases where urban planning permission has been obtained or an application for such permission has been submitted until 31 October 2023 and for which a duly completed application has been submitted to the Competent Authority, within three years from the date the new provision came into effect.

Where the transaction falls within the transitional provisions and thus the previous provision of the VAT Law will be applicable, the reduced rate of 5% VAT will be applicable to the first 200 sqm based on the building coefficient as determined based on the building permit irrespective of the total buildable area of the property or the total value of the transaction.

3. Application of 5% for another property during the period of 10 years

According to the previous provision of the VAT Law, a person who has exercised the right to acquire a residence with the reduced VAT rate of 5% may exercise said right for the purpose of acquiring another residence before the expiration of ten (10) years, provided that the person:

1. ceased using the residence as a primary place of residence before the expiration of ten (10) years,
2. notified the Commissioner and
3. paid the difference in VAT between the standard and reduced VAT rates applicable at the time of the acquisition or construction of the residence, irrespective of the period for which the property was used as the primary and permanent residence.

Therefore, a person who wished to reapply for the reduced rate 5% for another property before the expiration of a ten year period from the original application, was obliged to pay in full the difference between reduced rate and the standard rate of VAT due at the time of acquisition of the original property.

The new VAT Law amends the conditions for the right to re-apply for the 5% of VAT for another property during the period of 10 years. According to the new provision, an individual can apply for the 5% VAT on the new property provided that the person:

1. notifies the Commissioner within thirty (30) days from the date he ceased using it as a place of residence and
2. pays the amount of the difference between the amounts of the VAT which result from the application of the reduced rate and the standard VAT rate **attributable to the remaining period of 10 years for which the property will not be used as the main and primary place of residence**, except in case of death of the beneficiary person or in case of transfer by the beneficiary to any of his adult children, provided that the said child is a beneficiary at the time of transfer.

The above provision also applies to properties falling under the transitional provision as stated above.

In light of the new amendment, a person who applied for the 5% VAT and is intending to purchase a new property before the lapse of the 10 year period from original acquisition, will be liable to pay only the proportional VAT corresponding to the remaining number of years for which the property will not be used as the permanent and primary residence over the 10-year period.

4. Effective date of the amending VAT Law

The amendments to the VAT Law will take effect from 16 June 2023.



Takeaway

Property developers engaged in the developing and selling of private residences and individuals wishing to acquire a primary residence, will be significantly affected by the amendments to the VAT Law.

Our dedicated team of VAT specialists can assist in assessing whether an individual is eligible for the 5% VAT on a primary and permanent residence, in the application and obtainment of the 5% VAT 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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