

Indirect Tax Services

Newsletter



Newsletter 75/ November 2017

On 03/11/2017, the House of Parliament voted the long awaited amendment of Cyprus VAT Legislation concerning taxation of building land, in order to align it with the provisions of EU VAT Directive. Specifically the amendments relate to (a) the imposition of 19% VAT on the sale of building land, (b) the taxation of new commercial immovable property leasing contracts and (c) the application of reverse charge on transactions relating to transfers of immovable property during the process of loan restructuring.

(a) Imposition of 19% VAT on building land

- Standard VAT rate of 19% will be imposed in all of the following cases:

- (i) transfer of ownership,
- (ii) transfer of indivisible land portion,
- (iii) transfer of ownership via contract or sale agreement or agreement which specifically provides that the ownership will be transferred on a future date or leasing agreement with buyout option,

of non **developed building land** which is intended for the construction of one or more structures in the course of carrying out a business activity.

- The Cabinet has the power to designate, via relevant regulations, the pieces of land which will fall under the category of non developed building land, as well as the exact date which will be taken into account for the identification of the time of supply for VAT purposes. The aforementioned regulations will need to be approved by the Parliament.

- No VAT will be imposed on the disposal of shares or shareholdings in companies, resulting in transfer of ownership of related immovable property.

The aforementioned provisions are effective as from 2 January 2018.

(b) Reverse Charge

The imposition of VAT on the supply/transfer of ownership of immovable property (buildings and land which is transferred along with them, given that the transaction takes place before their first use, and/or building land) in cases of loan restructuring and/or the compulsory transfer to the lender, will be carried out via the reverse charge mechanism.

The aforementioned provision is effective as from 2 January 2018 and will continue to apply until 31 December 2019.

(c) Leasing of immovable property for business purposes

The leasing of immovable property, except buildings which are used as residential dwellings, to taxable persons for taxable business activities will be subject to VAT.

The lessor has the right, based on terms and conditions which will be designated by the Commissioner of Taxation in his relevant Notification, to opt for the non - imposition of VAT to the lessee of the immovable property. The option is irrevocable.

The imposition of tax will apply to lease agreements which are concluded on or after the effective date of the Law.

The aforementioned provision will be effective as from the date it is published in the Cyprus Government Gazette.

Take away

Based on the above, it is clear that the VAT treatment of supply and leasing of immovable property has been substantially amended. Similar immovable property will be subject to different VAT treatment depending on the status of the person who sells or leases or the option of the lessor. Additionally, there are several important issues which should be further examined and clarified. Some of them include:

- No definition of "building land".
- No definition of "taxable business activity" for the purposes of leasing/rental agreements.
- The procedure through which the lessor will determine whether the lessee uses the building for taxable business activities and thus should impose VAT, remains unknown.
- Does the lessor of immovable property (who does not carry out any other economic activity) have an obligation for VAT registration if the lessee carries out economic activity and under which conditions he can opt for non-taxation.
- How the VAT treatment of rentals of commercial buildings is affected, where the status of the lessee changes from a person who carries out taxable economic activities to a person who does not.
- The definition of economic activity when persons dispose / transfer ownership of immovable property on an occasional basis.
- How the right for recovery of input VAT is affected on cost of land and/or construction expenses and building maintenance costs.

Way forward: how PwC can help you

The amendments in the Legislation are expected to have significant impact on the land development industry and will affect both the developers and the persons who own immovable property for leasing purposes. The dedicated team of VAT professionals at PwC is ready to discuss the above mentioned changes and provide any support in relation to the above changes.

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