



On 2<sup>nd</sup> of April 2019, the VAT Circular 233 was released which provides the Tax Authority's interpretative guidance in relation to the supply of non-developed building land. The VAT Circular 219 has been withdrawn and replaced by VAT Circular 233 the contents of which are effective as of 02/04/2019.

### **Supply of non-developed Land**

From 02/01/2019, the supply of non-developed land is subject to VAT at the standard rate when supplied in the course of business. The definition of non-developed land is provided for in Regulation 441/2017 but does not include land which is in a farming zone, zone outside of development area or environmental, archeological or agricultural zone.

The interpretation of the term "business activity" and whether the transaction falls within the meaning of carrying out an activity for commercial purposes, will be determined based on the facts of each case separately. The circular attempts to provide guidance on this matter.

### **Economic activity - Imposition of 19% VAT on non-developed building land**

Whereas, the Circular considers that each transaction should be examined in accordance with its own merits, the new Circular outlines specific categories of transactions of undeveloped building land which, according to the Tax Department, should always be treated as a taxable supply which is performed under the course of an economic activity, irrespective of the purpose of the transaction, its value or the location of the property.

Therefore, a transaction falling within one of the following stated categories, will always be subject to Cypriot VAT and trigger an obligation for the supplier to register for VAT purposes in Cyprus. The reason of this provision is to avoid violation of the principle of tax neutrality and unfair competition, except if the plot for sale is the last plot in the area, where in such a case the transaction may not fall with the scope of VAT.

### **The standard VAT rate of 19% will be imposed in all of the following cases where a person is performing a transaction in the course of an economic activity:**

1. Supply of building land located in specific zones i.e. industrial zone, tourist area, tourist facilities, hotels, organized apartments, holiday houses etc.
2. Supply of more than one piece of land from a person,
3. Supply of land by the administrator of property of a deceased person,
4. Supply of a plot following the separation of a land.
5. Supply of land by a Self-employed person who is VAT registered and who acquires the land from his profits.

### **No VAT will be imposed in the following cases:**

Further to the above, according to the Tax Office, the below four categories of transactions are not considered to be performed under the scope of an economic activity and therefore do not fall within the VAT spectrum.

1. Supply of more than one piece of land which are next to each other and are sold as a single supply to a single buyer, except if they fall under the zones stated in point A(1) of the circular.

2. Supply of piece or pieces of land given in consideration to the company which perform the separation of the land in order to cover the separation expenses incurred.
3. Supply of the last or the only piece of land which is in the possession of the seller.
4. Supply of a piece of land by a taxable person (self – employed individual) who is VAT registered and owns the land for personal purpose (not for commercial purpose), except if the supply consists of supply of more than 1 piece of land.

### **Supply of piece of land by a legal person**

The new Circular also provides specific examples concerning supplies of undeveloped building land by legal persons (i.e. Companies or partnerships) and their respective VAT treatment.

We set out below the examples outlined in the relevant VAT circular:

1. Supply of land by a company or partnership who is carrying out business activities, VAT registered or not (even if the transactions carried out are exempt for VAT purposes), with or without a consideration, it is considered to be taxable at the standard VAT rate of 19%.
2. Supply of land by a company or partnership who is not carrying out business activities (i.e. dormant or holding companies) with or without a consideration, it does not fall within the scope of Cypriot VAT and therefore no obligation for VAT will arise.
3. Supply of piece of land by a legal person which was obtained as a result of gift given from the shareholder of the company and was not used for carrying out business activity, no VAT will be imposed on the transaction.

### **Time of Supply**

No VAT will be imposed on the supply of undeveloped building land if:

- a. The transfer of pieces of land has been performed in accordance with provisions of the relevant Law before 2 January 2018, or
- b. The sale agreement has been submitted to the land registry office before 2 January 2018.

In cases where the sale agreement is submitted to the land registry after 02/01/2018 then for any part of the sale consideration received prior to 02/01/2018 the old provisions of the Law will apply and no VAT will be imposed whereas for any part of the consideration received post 02/01/2018 the new provision of the Law will apply.

### **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.

### **Way forward: how PwC can help you**

Our expert indirect tax team is at your disposal to discuss about any transactions affected by the amendment of the legislation and provide advice as per the correct tax treatment.

**Your contacts for Indirect Tax matters in PwC Cyprus**



**Theo Parperis**  
Head of Tax and Legal  
[theo.parperis@pwc.com](mailto:theo.parperis@pwc.com)

**Chrysilios Pelekanos**  
In charge of Indirect Tax Advisory  
[chrysilios.pelekanos@pwc.com](mailto:chrysilios.pelekanos@pwc.com)

**Varnavas Nicolaou**  
Partner, Indirect Tax Advisory  
[varnavas.nicolaou@pwc.com](mailto:varnavas.nicolaou@pwc.com)

**Martha Lambrou**  
Director, Indirect Tax Advisory  
[martha.lambrou@pwc.com](mailto:martha.lambrou@pwc.com)

**Michael Michael**  
Director, Indirect Tax Advisory  
[michael.michael@pwc.com](mailto:michael.michael@pwc.com)

PricewaterhouseCoopers Limited  
PwC Central  
43 Demostheni Severi Avenue  
CY-1080 Nicosia  
Cyprus  
Tel. +357 - 22 555 000

[www.pwc.com.cy](http://www.pwc.com.cy)