



On 27 December 2018, the TAX Authority has released an interpretative circular relating to the application of the amending Act with number 39(I) of 2018 which has come into force on 1 January 2019 and relates to the VAT treatment on the effective transfer of the right to use an immovable property.

A. VAT treatment for leasing of immovable property

According to the provisions of Schedule 8 of the VAT Law, the leasing of immovable property is an exempt activity from VAT, except of the cases that are stated in Paragraph 1(a) of Schedule 8.

From 1/1/2019, the leasing which transfers to the lessee the right to dispose the immovable property as owner or dispose the immovable property is added in the exceptions of Paragraph 1(a) of Schedule 8. Therefore, as from 1/1/2019, these types of long-term leases of immovable property are **not** exempt from VAT.

B. Clarifications given

The following clarifications have been given by the interpretative circular:

1. VAT rate

The long-term leasing of immovable property, for which the right to dispose the immovable property as owner or dispose the immovable property is transferred to the lessee, is subject to VAT at the rate of 19% or at the rate of 5% when the lessee will use the property as his main and primary place of residence.

2. Leasing of second-hand properties

The long-term leasing of immovable property, for which the right to dispose the immovable property as owner or dispose the immovable property is transferred to the lessee, is still exempt from VAT when it is transferred after the first use of the property.

3. Interpretation of the 'effective transfer of right to dispose immovable property'

The TAX Authority has clarified that the term 'effective transfer of right' includes, except of the free ownership of the immovable property, other rights that are equate to substantial and effective ownership like:

- (a) Rights that equate to free ownership as determined in the Law of Immovable Property, (e.g. persons that has a long-term interest on the property for 99 or 999 years),
- (b) Provision of long-term leasing when there is a lump sum payment equal to the current market value of the property, together with the annual payment of a very low rent,
- (c) Provision of long-term leasing when, at the beginning of the lease, the present value of the minimum lease instalments (without taking into account the cost of any possible services provided during the lease term) covers substantially the fair value of the leased asset (e.g. 90% of the market value).

4. Place of supply

Following the amendment of the Law, the leasing of immovable property when there is an effective transfer of right to dispose the immovable property is considered as a supply of goods and is taxable at the place where the immovable property is located.

5. Time of supply

As the aforementioned transactions are considered as supply of goods, the VAT will be due the earlier of the day that the goods are placed in the possession of the buyer or the date of the invoice or the receipt of any payment. In case that the invoice date or the payment receipt precede, VAT is due on the amount invoiced or received.

6. Transitional provisions

The TAX Authority has clarified that in cases that prior to 1/1/2019:

- A reservation agreement was signed which includes a specific term under which a specific immovable property is reserved for a specific customer, or
- Upon agreement, a sum of money has been deposited in an escrow account and will be released after the fulfilment of a number of agreed terms, or
- The contract has been stamped and submitted to the Department of Land Registry or the Commissioner of Taxation,

the transitional provisions of the Law apply and the transaction can be considered to take place before the amendment of the legislation, and thus be exempt from VAT.

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

Chrysilios Pelekanos

In charge of Indirect Tax Advisory - chrysilios.pelekanos@pwc.com

Varnavas Nicolaou

Partner, Indirect Tax Advisory - varnavas.nicolaou@pwc.com

Martha Lambrou

Director, Indirect Tax Advisory - martha.lambrou@pwc.com

Michael Michael

Director, Indirect Tax Advisory - 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