

VAT on building land & business rents



PKE Consultants Limited

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On 3 November 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 new law introduces VAT at the standard rate (19%) (a) 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, as explained below:

a. Imposition of VAT at the standard rate of 19% on building land

VAT at the rate of 19% will be imposed as from 2 January 2018 on the transfers of non-developed building land which is intended to be used for the construction of buildings/structures in the course of carrying out a business activity.

More clarification is required for the purposes of applying the law such as the circumstances under which a transfer is not considered to form part of a person's economic activities. It is intended that these clarifications will come in the form of Regulations that require to be approved by the House of Representatives.

b. VAT on leasing of immovable property used for business purposes

VAT at the rate of 19% will be imposed on the leasing of immovable property towards taxable persons (except where the lease relates to residential dwellings) as part of a taxable business activity.

As per the provisions of the law the lessor has the right (through an irrevocable option) to choose to opt out of VAT under certain conditions and procedure to be advised by the Tax Commissioner. We understand that the Revenue is presently preparing a circular addressing this and certain other ambiguities in the Law such as the precise meaning of the term 'engaged in taxable activities' and the circumstances under which VAT can be reclaimed on the cost of construction of existing buildings.

The provisions on leasing have immediate effect and will apply to lease agreements which are concluded from 13 November 2017 onwards.



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c. Introduction of Reverse Charge Provisions on transfers resulting from loan restructuring or forced transfer of property to lender

Transfers under loan reorganization or compulsory transfers are normally made without any payment by the Bank to the taxpayer. The transaction creates a VAT liability that the tax payer clearly would not be in a position to pay. For this reason, the article 11D to the main VAT Law is introduced transferring the obligation to discharge the VAT in such situations from the tax payer to the recipient (being the bank).

The provisions apply to immovable property including land and/or buildings which are transferred along with the land in which they are built on, provided that the transaction takes place before the first occupation of the building.

The new reverse charging provisions will come in force as of 2 January 2018 and will remain in force for a limited period of time, currently being until 31 December 2019.

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PKE Consultants Limited

10 Adamantiou Korai,
2321 Nicosia,
Cyprus

Phone

+357 22 102019

Fax

+357 22 102019

E-mail

info@pkeconsultants.com.cy

Find us at:

www.pkeconsultants.com.cy

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