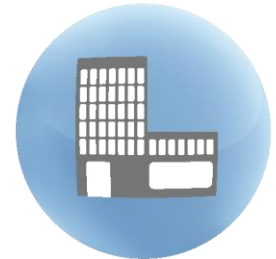


TAYLOR PATTERSON

PART OF MATTIOLI WOODS PLC



COMMERCIAL PROPERTY OUR GUIDE TO PROPERTY & VAT

The VAT status of a property can have significant implications for your scheme; as a result you should always seek specialist tax advice. This guide provides information only on the key areas and does not constitute advice.

Property Purchase and VAT

VAT will be payable on a property purchase when:

- The property being acquired has an option to tax attached to it.
- The property being acquired is less than 3 years old.

If VAT is payable it will have to be taken into account when financing the purchase, particularly when calculating any borrowing required, even though it may be reclaimed post completion.

Transfer as a Going Concern (TOGC)

In some cases, it may be possible to treat the property purchase as a “transfer of a going concern” (TOGC) in which case no VAT is paid on the purchase and it can be ignored in the calculation of the financing of the deal.

However, for the transaction to be treated as a TOGC the property must be tenanted with a current lease. The purchasers must be registered for VAT and are responsible for notifying HMRC of the option to tax and the date of the transfer.

Opting to Tax – The Consequences

Whether or not VAT is being charged by the vendor, it is a decision for the pension fund trustees as to whether to opt to tax the property once it has been purchased. In order to reclaim the VAT on the purchase price or to take advantage of TOGC provisions, the pension scheme must also opt to tax the property and, if not already done so, register for VAT. It is not possible to opt to tax a property without being VAT registered.

The decision to opt to tax a property is a commercial decision and each case should be considered on its own merits. Some considerations when opting to tax are:

- It allows the property owner(s) to reclaim the VAT on the purchase price or to take advantage of TOGC provisions.

- It allows the property owner(s) to reclaim the VAT on property development costs and property expenses in relation to that specific property but not others where the option to tax hasn't been taken.
- The property owners must charge VAT on supply of the property i.e. rent and/or sale of the property, but not on other properties where the option to tax hasn't been taken.
- Having to charge VAT on the supply of the property may make the property unattractive to potential tenants or purchasers if they are not VAT registered themselves and therefore not able to reclaim any VAT.
- Once made, the option cannot be revoked for 20 years while the property is owned by the same owner(s). It is therefore not possible to opt to tax just to reclaim VAT and then deregister. Irrespective of the length of ownership, once sold the option comes to an end and the new owner can apply the option if they wish.
- It is possible for a pension fund to hold properties some of which have options to tax and some of which don't.

On Going VAT Administration

If you take the decision to register your pension scheme for VAT you will be able to reclaim the VAT on the purchase price. Further if you intend to develop or refurbish the property any VAT on the expenses associated with this can also be reclaimed.

By registering your pension scheme for VAT all rental income will also be subject to VAT. Finally if you decide to sell the property VAT will also be charged on the sale price.

In order to comply with HMRC rules for reclaiming VAT any income or expense invoices must be addressed to the Trustees of the Pension Scheme. VAT needs to be accounted to HMRC on at least a quarterly basis.

Taylor Patterson does offer a VAT administration service to its pension schemes, assisting with the registration, opting to tax and quarterly VAT registrations. However it is the responsibility of the property manager to prepare and submit the relevant paperwork.

Taylor Patterson also asks its pension schemes to sign a VAT Indemnity to restrict any liability in relation to VAT to the value of the assets in the pension scheme.

The guidance notes are aimed at financial advisers and do not constitute advice. If you are a private investor, you should always seek independent financial advice.

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