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VAT: Changes in the VAT treatment of serviced building plots

HMRC is announcing a change in the liability treatment of serviced building plots.

A serviced building plot is bare land in respect of which civil engineering works have been carried out to provide access to essential services such as gas, electricity, water, main drainage, street lighting and sewerage. Until now, HMRC have treated the supply of a serviced building plot by the landowner to a developer as consisting of two supplies - an exempt supply of land and a standard-rated supply of civil engineering.

A recent VAT Tribunal decision in Douglas Virtue & Sonia Virtue T/A Lammermuir Game Services [V20259] held that the sale of a 'plot of land within a **serviced site**' (the Tribunal's description, in preference to the term **serviced plot**) constituted a single exempt supply of land.

The Tribunal also held that, in this case, the supply of the civil engineering works to the landowner was zero-rated because it had been made in the course of the construction of a 'building designed as a dwelling'.

The supply of civil engineering works is normally standard-rated.

Revised position

HMRC now accept that, with immediate effect, the supply of a serviced building plot of land is a single exempt supply of land by the landowner.

The supply of civil engineering works to the landowner to provide access to essential services will continue to be standard-rated in most cases. However, where the landowner can demonstrate that these services are being received in the course of construction of a building designed as dwellings, or buildings intended for use solely for a relevant residential or a relevant charitable purpose, they can be zero-rated.

HMRC would normally expect all the following to be met to demonstrate that zero-rating is appropriate:

- the landowner holds sufficient planning consent to demonstrate that the civil engineering works were received in the course of construction of a building designed as dwellings, or buildings intended for use solely for a relevant residential or a relevant charitable purpose

- the civil engineering is closely connected with or facilitates the construction of buildings; and the construction of the buildings will follow on closely after the completion of the civil engineering works.

The extent to which the above conditions have been met will be a matter of fact and degree. HMRC would need to be satisfied that at the time the civil engineering is supplied, any potential purchaser of a serviced plot can only construct a qualifying building on the plot. In addition, it must be clear that the landowner has a firm intention to sell the serviced plots once the civil engineering is complete and that any purchaser is ready to begin actual construction of the buildings as soon as possible.

Impact on Landowners, commercial housebuilders and DIY housebuilders

Prior to this finding by the Tribunal:

- Landowners would incur VAT on the civil engineering works carried out and, if they were registered for VAT, were able to take credit for this VAT as input tax against the output tax due on the onward supply of the civil engineering to the purchasers of the serviced plots
- if the purchasers of the serviced plots were commercial developers, the VAT on the civil engineering element would be recoverable to the extent that a taxable supply would be made of the completed buildings
- if the purchasers of the serviced plots were DIY housebuilders, the VAT on the civil engineering element could not be recovered through the DIY Housebuilders' VAT Refund Scheme.

New policy following the finding by the Tribunal:

- Landowners will now be making an exempt supply of land and will not be able to register for VAT unless they have other taxable activities
- if the supply of the civil engineering works to them is standard-rated, they will not be able to recover this VAT and it will become a cost to the landowner
- developers and DIY housebuilders will now not be charged VAT by landowners in this situation.

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