

“Golden Brick” – Sale during Construction – VAT Issues

Issues

The VAT legislation intends to give zero-rating to developers constructing new dwellings. However, there are two key points to consider:

- Do the works amount to construction?
- Is the grantor a person undertaking those works?

The building does not need to be finished for zero-rating to apply. However, it does at least need to be under construction.

Contracts may well be exchanged at an earlier stage before construction has commenced and the purchaser may pay the vendor or his agent a deposit creating a supply before the works are capable of zero-rating.

Opportunity

The VAT legislation intends to give zero-rating to developers constructing new dwellings.

This thereby:

- allows recovery of VAT incurred on development and professional costs; and
- can prevent standard-rated VAT being charged to the purchaser which, at best, represents a cash flow cost and may represent an absolute cost to the purchaser of VAT and /or SDLT (charged on the VAT inclusive amount).

It is therefore quite common for a sale to be delayed until it qualifies for zero-rating e.g. when it has progressed beyond the foundation stage and there is a course of bricks above the foundations. This is often referred to as a "golden brick" scheme.

How we can help

If engaged early enough, we can advise on the timing of payments and sale in order to ensure zero-rating and the related VAT recovery is maximized.

We can advise on the VAT treatment of deposits to ensure these payments also qualify for zero-rating where possible.

For further advice concerning any of the issues raised, please contact one of our key individuals detailed below. Information on other property tax related topics can also be found on our website at <http://bankingtaxfinance.davislangdon.com>

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