

## Zero-Rating

### Converting a building to a dwelling – VAT Issues

#### Issues

The first grant of a major interest in a dwelling by a person converting a non-residential building into a dwelling is zero-rated. However, the following will need to be considered

- Is a “first grant” being made?
- Is the grant a “major interest”?
- Is it the “person converting” who is making the grant?
- Would the property have been considered previously “non-residential” for VAT purposes?
- After conversion, would the property be seen as designed as a “dwelling” or “number of dwellings” for VAT purposes?

#### Opportunity

A relief is available, as for new dwellings, to allow developers to recover VAT on the construction and disposal costs of a non-residential building which is converted into a dwelling, or number of dwellings, in certain circumstances.

Whilst much of the conversion work should qualify for the reduced rate of VAT of 5%, the VAT at stake will usually be far more significant than for new dwellings (where construction costs are likely to be at 0% VAT).

It may be possible to grant a major interest in the dwelling in order to obtain zero-rating and therefore recover any VAT incurred on conversion.

Even if the developer was only intending to grant short leases, there are two possible solutions:

- Grant a long lease to the occupant, but with break clauses – this may not be attractive.
- Sell the property, or grant a long lease in it, to an associated company, which then grants the short leases to the occupants.

HMRC do not generally see these solutions as “abusive” and in fact, have in the past suggested this arrangement as a way of dealing with the lack of zero-rating for conversion works.

#### How we can help

We can advise on the possible solutions and issues outlined above to ensure that a zero-rated grant of a major interest can occur where possible, thereby allowing related VAT recovery of conversion costs.

Whilst HMRC do not general regard such arrangements as “abusive”, we can advise on whether or not the use of another company (where applicable) is notifiable to HMRC as a “hallmarked scheme”.

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>

Paul Farey  
+44 (0)20 7061 7139  
paul.farey@  
davislangdon.com

Steve McIntyre  
+44 (0)1962 737066  
steve.mcintyre@  
davislangdon.com

Sarah Franklin  
+44 (0)1962 735350  
sarah.franklin@  
davislangdon.com

Terry Rumford  
+44 (0)2380 682804  
terry.rumford@  
davislangdon.com