

Tax Talk - VAT on residential dwelling that has features of a hotel-like accommodation and facilities

FS: Is VAT on residential dwelling exempted from VAT?

ACEO: Yes, the Value Added Tax Decree (VATD) exempts the supply of rented accommodation in a "dwelling" that is occupied by tenants as their main place of residence or home. This means that the supply of accommodation in a Residential Dwelling by way of hire provided it is used predominantly as a place or residence or abode is not subject to VAT.

FS: How do you define dwelling?

ACEO: 'Dwelling' under the VAT decree means "... any building, premises, structure, or other place, or any part thereof, used predominantly as a place of residence or abode of any individual, together with any appurtenances belonging thereto and enjoyed with it; but does not include a commercial dwelling;"

FS: What is the definition of commercial dwelling?

ACEO: "Commercial dwellings" are those establishments that provide residential accommodation in hotels and similar premises including buildings where various services are supplied as part of the supply of accommodation. Apart from hotels, residential accommodation in motels, inns, homestays, serviced buildings and serviced apartments are regarded as dwellings that provide hotel-like accommodation, therefore such supplies are not exempt. The supply of accommodation in any building, premises or apartment may include the supply of a service or facility or a combination of services and facilities.

FS: So what is the new law on residential dwelling that provides hotel-like accommodation?

ACEO: Effective 01 January 2016, a change to the exemption provision relating to the supply of residential accommodation excludes residential apartments which provide hotel-like accommodation and facilities.

The new amendment means that any rented premises supplied as a main place of residence or used as a home by an individual is not exempt if the accommodation contains features that are similar to that provided in hotels. The change ensures that all rented residential accommodation in establishments that provide services or facilities that are similar to that provided in hotels, including managed serviced apartments as they are treated in the same way regardless of the structure adopted to provide the accommodation.

FS: So what are these features of Residential Apartment Hotel-like accommodation and facilities?

ACEO: Some of the common features of rented residential accommodation that is not exempt from VAT are: Security services; Housekeeping and /or laundry services; Free access to TV channels; Free or paid internet services such as Wi-Fi and emails; Provision of swimming pools; Provision of meals, Recreational area e.g. shared gyms, pools; Booking system for accommodation; Cooking facilities with other services; and any other service to ensure safety and comfort.

FS: Is the accommodation and/or facilities or services mentioned above to be clearly stipulated in the written contract? What other features do you look for?

ACEO: The accommodation and additional services contracts between the tenant and landlord can be verbal or written; duration of stay occupancy can be short or long; there may be a variety of accompanying features and characteristics. The degree of management and control exercised in relation to the provision of services is necessary for identifying the combination of features that would indicate that accommodation is in a serviced apartment and therefore a commercial dwelling.

FS: What should owners of such residential properties that provide hotel-like accommodation do?

ACEO: Responsible or accountable persons will be required to make changes to lease agreements to show the VAT component. They are also required to provide information on pricing and issue tax invoices to their tenants. They will also be required to keep records to support the computation of taxable supplies.

Persons who supply residential accommodation in a commercial dwelling or makes supplies that meets the description of ‘hotel like’ services and facilities for VAT purposes, will need to register for VAT. They can do this in consultation with us or with their accountants. The following is a guide-

	Registration status	Requirement	Advantage
a)	If already registered	Start charging the 9% VAT	Can claim input VAT on purchases made for the period concerned.
b)	If not registered and turnover exceeds or will exceed \$100,000 in any 12-month period	Must register and start accounting for VAT from the date the person became liable to register;	Can claim input VAT on purchases made for the period concerned
c)	If not registered and turnover is below \$100,000	May register voluntarily.	A person who is not registered is not permitted to charge tax on supplies made.

FS: How does a person register?

ACEO: Persons who are required to register because their turnover is more than \$100,000 (excluding VAT) should complete an Application for Registration form available from the FRCA. They should do this within 21 days of becoming liable to register. Those wanting voluntary registration may make application on same form. A person may apply for registration in anticipation of beginning a taxable activity. For example, a person who plans to open a business at the beginning of the following month can apply in advance for registration effective from the day the business commences.

FS: Will the person be notified of the registration status and the effective date of registration?

ACEO: Once the application for registration has been made and the FRCA is satisfied that the person is to be registered, then the person will be notified. The effective date of registration will generally be the date that application is made, or where any person is required to register and fails to do so, they will normally be registered with effect from the date they first became liable to register.

FS: How about Non-profit Bodies that in the residential dwelling business that provide hotel like services?

ACEO: For VAT purposes a Non-profit Body is any society, association, or organization (whether incorporated or not) that is not carried on for profit or gain of any member, and whose rules do not allow the distribution of money, or other property, to any of its members. Most charitable organizations, sports clubs, service organizations, professional groups, churches, social clubs, school committees, and PTAs are non-profit bodies for the purpose of VAT. However, a non-profit body that hires residential dwelling that are hotel like accommodation and facilities and whose taxable supplies is more than \$100,000, will be required to register for VAT and charge VAT to its tenants.