



VAT or Transfer Duty on the sale of immovable property?

When immovable property is sold, the questions that will in all likelihood first arise are: whether Transfer Duty or VAT will be payable on the transfer; and should VAT be payable, whether it will qualify as a zero-rated taxable supply.

The general rule when it comes to tax and the transfer of immovable property is that Transfer Duty, regulated in terms of the Transfer Duty Act, No. 40 of 1949 (the “**TD Act**”), is levied on the value of any immovable property and payable by the person acquiring such immovable property. However, if the seller is a registered VAT vendor in terms of the Value-Added Tax Act, No. 89 of 1991 (the “**VAT Act**”), VAT will be applicable to the

transfer of the immovable property transaction and not Transfer Duty. As such, either the **VAT Act** or the **TD Act** will apply when immovable property is alienated.

Once it has been ascertained that the seller is a registered VAT vendor (which entails that VAT will be applicable and not Transfer Duty), it will have to be determined whether the property is capable of being sold as a going concern, which will in turn render the tax to be levied at a zero rate as opposed to the normal 15% rate. The sale as a going concern means the supply of an income-earning activity to the purchaser where all the conditions in section 11(1)(e) of the **VAT Act** are met and where the parties have agreed in writing that the enterprise / immovable property is being disposed of as a going concern.

For more articles please visit

[OUR NEWSROOM](#)

We are a boutique law firm in Pretoria specializing in Corporate and Commercial law related matters.

Please contact us for further information and follow us on social media.



VAN HUYSTEENS
COMMERCIAL ATTORNEYS

Die Klubhuis
Pinaster Avenue 26, Hazelwood
Pretoria, South Africa
T +27 12 349 2306

www.vanhuysteens.co.za