

**VATR 123****Facts**

A, a VAT-registered domestic company, is engaged in real estate activities and operates as a Job Contractor. Currently A is leasing Lot No. B to C, a Global Business Company.

On 1st December 2023, A and C entered into a five-year lease agreement which included a purchase option exercisable within the first two years. The intention to purchase the Property existed from the lease commencement.

On 6th May 2025, C exercised the purchase option by serving notice to A. However, the actual acquisition will be completed by its related company, D, a domestic company to which A has no objection. D is not liable for compulsory VAT- registration and therefore does not intend to register for VAT.

**Points at issue**

- (a) Does the acquisition of the Property by D, a non-VAT registered entity, from A, a VAT-registered company engaged in property acquisition and development, for the purpose of sale and/or lease, qualify as an exempt supply under Item 48(b) of the First Schedule to the VAT Act?
- (b) Does the lease of the Property to C have any impact on the VAT treatment of the proposed sale, particularly regarding the application of the exemption under Item 48(b)?
- (c) Should D subsequently become liable for compulsory VAT registration after completion of the Property acquisition (due to exceeding the VAT registration threshold or other circumstances requiring mandatory registration) and eventually register for VAT, would this change in VAT status retrospectively affect the VAT treatment of the original Property acquisition transaction?

**Ruling**

On the basis of facts provided, it is ruled that:

- (a) The acquisition of the Property by D, a non-VAT registered entity, from A, a VAT-registered company engaged in property acquisition and development, for the purpose of sale and/or lease, will not be subject to VAT by virtue of Item 48(b) of the First Schedule to the VAT Act provided that all regulations relating to the acquisition of properties in Mauritius have been complied with.
- (b) The leasing of the Property to C and the proposed sale of the Property to D are two distinct and separate supplies. The leasing of the Property is subject to VAT at the standard rate of 15%, whereas the sale of the Property is an exempt supply in accordance with Item 48(b) of the First Schedule to the VAT Act; and
- (c) In the event, D is liable for compulsory VAT registration and eventually register for VAT, its VAT registration status will not retrospectively affect the VAT treatment originally given to the Property acquisition transaction.