

## VATR 22

### Facts

Société C is a 'Société Civile d'Attribution' registered in Mauritius with a share capital of Rs 4,000,000 owned in equal proportion by two associates, viz A and B.

The Société is the owner of three contiguous plots of land of a total acreage of 321.5 toises situated at St Jean Road Quatre Bornes which it has resolved to develop by the construction of a 9-storey building comprising parking lots, office and commercial spaces as well as residential accommodation.

Under the project it is proposed to increase the share capital (parts sociales) of the Société into 106 'Group de Parts Sociales' with a corresponding attribution of 106 lots. The shares will initially be issued to the two co-owners. Potential buyers will be required to subscribe to the share capital of the Société and the value attributable to the respective shares will depend upon

- a) the date on which the shares are transferred
- b) the value of the construction work in progress as certified by the Quantity Surveyor

Subsequently, the buyer will contribute towards the construction works through a Current Account with the Société until the construction is completed. At the completion of the project the Société will be dissolved and the various lots attributed by a 'partage' to each owner.

### Point in Issue

- a) Whether Société C is a property developer under item 48 of the First Schedule to the Act?
- b) In case the Société is considered a property developer under item 48 of the First Schedule, whether the transfer of right to the property through the transfer of shares will be a taxable supply?
- c) In case the Société is considered a property developer under item 48 of the First Schedule is the time of supply determined to take place
  - at the time when the shares are transferred? or
  - at the time when the Société is dissolved and the different lots effectively attributed

## **Ruling**

Société C is a property developer under Item 48 of the First Schedule as it is the initiator of the property development project and directly involved in the carrying out of the project, whereas the other investors or potential buyers will be only joining in at different stages to become owners of their proportionate lots.

On the basis of the above ruling, in accordance with Item 48(a) of the First Schedule of the Act, the transfer of right to the property to be used for residential purposes or parking lots to be used by eventual owners of the residential property will be an exempt supply.

As Société C is a property developer and should be registered for VAT, the time of supply, in accordance with Section 5 of the Act, is the time a VAT invoice is issued or the time payment for the property is made either through purchase of shares or contribution towards the Current Account, whichever is the earlier.