

## **VATR 24**

### **Facts**

A Developer intends to carry out a development project under the IRS scheme which will comprise of a number of luxury apartments and villas together with conference, commercial and wellness centres etc, annexed thereto.

The properties to be sold fall in three major categories:

- a. apartments and villas forming part of a rental pool which shall be managed by a hotel operator, herein referred to as " Hotel Residences;
- b. villas which shall be managed by a rental management operator, herein referred to as "Non-Hotel Residences;
- c. conference, commercial and wellness centres which shall be managed by specialist operators.

The properties will be marketed to both foreigners and Mauritians. The main purpose of the acquisition of these properties by the investors is to earn a yield on the investment, either by generating an income stream through commercial letting or through an appreciation in value.

The owners of the "Hotel Residences will be obliged to participate in a rental pool programme operated by a hotel operator for the purpose of conducting a hotel business, in accordance with the terms of the rental pool agreement which will be signed at the conclusion of the sale with each owner of a Hotel Residence. The rental agreement provides for the deduction of all operating expenses, control and management expenses, as well as the payment of all taxes.

The owners of residences not forming part of the rental pool programme will be entitled, on a voluntary basis, to rent their properties, i.e. "Non-Hotel Residences through a separate rental programme which will be managed by a rental management operator. In accordance with this agreement, the latter will be remunerated with a monthly management fee representing a percentage of the gross rental income.

The owners of both the Hotel Residences and the Non-Hotel Residences intend to let their properties for a period not exceeding 90 days, but on a renewal basis. These owners also intend to apply for VAT registration as they expect to make an annual turnover of taxable supplies of more than Rs 2 Million. The Developer as well intends to apply for VAT registration as he expects to make an annual turnover of taxable supplies of more than Rs 2 million.

**Points in issue**

- a. whether the owners of Hotel Residences and Non-Hotel Residences will be making taxable supplies;
- b. whether the owners referred to in (i) above who anticipate to have an annual turnover exceeding Rs 2 million will need to be compulsorily registered for VAT;
- c. whether as a result of (i) and (ii), the Developer needs to be compulsorily registered for VAT, given that he will be making taxable supplies of more than Rs 2 million.

**Ruling**

On the basis of the facts given, it is confirmed that :

- a. the owners of Hotel Residences and Non-Hotel Residences will be making taxable supplies;
- b. the owners referred to in (i) who anticipate to have an annual turnover exceeding Rs 2 million will be required to be compulsorily registered for VAT in accordance with Section 15(1) of the VAT Act 1998 as they will be making taxable supplies from commercial letting;
- c. the Developer will be required to be compulsorily registered for VAT under Section 15(1) of the VAT Act, given that he will be making taxable supplies of more than Rs 2 million in respect of the sale of villas not falling within the First Schedule.

Please note that being given the owners of Non-Hotel Residences will be entitled to "rent their properties on a voluntary basis, no claim for repayment of tax will be entertained under Section 24 of the Act in their respect unless and until satisfactory evidence is provided that they have actually started letting their property.