



Understanding Law Matters

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UNDERSTANDING THE EFFECT OF THE VAT INCREASE ON ESTATE AGENT'S COMMISSION

This article serves as a memo to our previous article dated 1 March 2018

We note that there has been an opinion expressed that VAT on Estate Agent's Commission is to be calculated on a time-apportionment method according to the date on which the mandate in question was granted and the date on which the registration of transfer subsequently occurs.

It is our opinion, and with all due respect to the proponents of the above opinion, that this approach is incorrect as it has failed to take into account the VAT Practice Note No. 4 issued by the Receiver of Revenue on 25 September 1991. In terms of this Practice Note the Agreement of Sale is not regarded as an invoice for determining the time of supply of the agent's services. The note goes further to confirm that the actual position is that an estate agent will be required to account for output tax on the commission in the tax year in which:

1. The commission is actually paid to him (or released from his trust account for this purpose); or alternatively
2. The tax year in which he issues a separate invoice to the seller for the commission payable (whichever of these two dates is earlier).

Based on the above, we confirm our approach as set out in our previous article.

Article by David Campbell

Yours Faithfully

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