



**Ministry Of Finance**  
**VAT Department**

VAT Guidance for Land and Property  
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## Introduction

This guide is intended to provide businesses supplying land and property within The Bahamas with information about Value Added Tax (“VAT”). It should be read in conjunction with the Value Added Tax Act 2014 (“VAT Act” or “the Act”), the Value Added Tax Regulations 2014 (“VAT Regulations”) and The Bahamas VAT Guide (“VAT Guide”), all of which can be found on the website of the Government of The Bahamas (“Government”).

## Is the sale or rental of land and property subject to VAT?

The lease, rental or hire of land or property located in The Bahamas is normally subject to VAT at the standard rate. The following supplies are exempt from VAT:

1. the sale or rental of a dwelling
2. the sale of non-dwellings
3. the transfer of vacant land
4. the lease of land where a dwelling is erected on the land or there is an intention to erect a dwelling on the land.
5. In accordance with Part I of the First Schedule, section 5 of the VAT Act, transactions costs on land and property transferred by a VAT registrant to another VAT registrant as part of a the transfer of a taxable activity as a going concern is subject to VAT at the zero rate provided all provisions within the VAT Act and VAT Regulations are complied with.

## What is a dwelling?

In accordance with the VAT Act the supply of a “dwelling” is exempt from VAT, therefore, it is important to determine what is considered a dwelling. In the VAT Regulations, a dwelling is defined as a building, premises, structure, or other place, or any part thereof, used or intended for use predominantly as a place of residence or abode of a natural person together with any



appurtenances belonging thereto or enjoyed therewith excluding a commercial rental establishment.

A condo, house, flat, apartment, room, caravan, houseboat, tent or camping site can all be considered a dwelling. Garages, sheds, outbuildings and gardens, provided they are supplied with and considered part of the property that is considered a dwelling, will be considered part of that dwelling.

If you own a condo, house, flat or apartment and lease it, furnished or unfurnished, for periods normally exceeding 45 days, to a person who will occupy it as their usual place of abode, your supply will be exempt from VAT. The VAT exemption will apply even if you carry on a property rental business and lease several properties on this basis.

### **What is a commercial rental establishment?**

The supply of a commercial rental establishment is not considered a supply of a dwelling. The lease, rental or hire or any supply, other than the transfer or sale of a commercial rental establishment located in The Bahamas is therefore subject to VAT at the standard rate (7.5%).

A commercial rental establishment includes a condo, apartment, flat or similar accommodation where the accommodation is leased normally or regularly for continuous periods of 45 days or less. It also includes such accommodation where the accommodation is owned or acquired by a non-resident under the International Persons Landholding Act (Ch. 140) where the permit specifies that such accommodation will be used for rental purposes and that accommodation is normally rented or leased for continuous periods of 45 days or less.

As a condo apartment or similar accommodation can be considered a dwelling or a commercial rental establishment, you must determine the VAT treatment by considering its normal use and the purpose for which it is to be used. For example, a one-off short-term rental (less than 45 days) of a condo that is usually rented on a long-term basis will not be considered a supply of a commercial rental establishment. Similarly, if you usually provide a condo for rental on a short-term basis and you rent it out for a longer period of 2 months this will still be considered a taxable activity.

A supply of a commercial rental establishment does not include:

- accommodation in a boarding establishment provided by an employer, not for the profit of any person but solely for the benefit of their employees, related person of the employer or dependants of the employer;
- accommodation in a boarding establishment provided by a local government council and not for the profit of any person; or
- accommodations in connection with exempt supplies of medical services.

### **What if I operate a rental pool?**

The supply of accommodation for periods of normally 45 days or less by the operator of a collective rental agreement ('pool administrator') is subject to VAT. The pool administrator may be a hotel or other person responsible for administration of the accommodations. The supply of the accommodation to the tourist/ tenant is considered to be made by the pool administrator.

A pool administrator, when considering whether there is a requirement to register for VAT must take into account all the income from all the accommodation they administer.

If the pool administrator does not pay any VAT due on the rental of a property then the Comptroller has the right to collect the VAT payable from the owner of the accommodation.

### **What if I own accommodation such as a condo and make it available through a rental pool?**

If you make your accommodation available to a pool for them to rent to tenants this is not a supply for VAT purposes. This means that you do not have to register for VAT or submit VAT returns. The administrator is liable for registration and to account for VAT. If the administrator responsible for the rental pool fails to pay VAT on the supply of the accommodation, you as the owner can be held liable for the VAT relating to the accommodation you own.

## **What if I rent accommodation such as a condo directly to visitors?**

If you normally supply the accommodation on a long-term basis for periods of over 45 days where the accommodation is likely to be considered the tenant's permanent residence, your supplies are exempt from VAT.

If your supply of the accommodation is normally provided on a short-term basis of 45 days or less then you are making taxable supplies. You will need to consider whether you are required to register for VAT (see section "When do I need to be registered for VAT?").

## **Is a property management fee subject to VAT?**

The management of a property is a taxable activity and subject to VAT. This includes maintenance fees for use of communal areas, maintenance and repairs and administration charges. For the avoidance of doubt, condo management fees are subject to VAT and the condo administrator should register and charge VAT on such fees once the necessary requirements for VAT registration are met.

## **What is the VAT treatment of condominium and homeowners' association fees?**

Condo and homeowners association fees are subject to VAT at the standard rate of 7.5%. When billed the VAT should not be included on the portion of the fee assessment that relate to property taxes or other purchases by the associations that are exempt. For example, until June 30, 2015, property insurance is exempt from VAT. These and similar exempt charges should be presented separately on association bills and indicated as exempt.

Associations will be allowed to use the cash basis of accounting for VAT.



## **Is the sale of a commercial rental establishment subject to VAT?**

The sale of a commercial rental establishment is not a taxable supply, however legal and other transactions costs will be subject to VAT. If you are registered for VAT and sell a commercial rental establishment your transactions costs will be subject to VAT unless the sale of the property forms part of a transfer of a business (see section “Transfer of a business”).

## **What is the VAT treatment of timeshare?**

The supply of timeshare is a taxable activity as timeshare is not a supply of a dwelling.

## **What is the VAT treatment of commercial property?**

The rental or lease of a commercial property is subject to VAT at the standard rate. Commercial property include, but is not limited to:

- warehouses
- factories
- retail outlets
- restaurants
- hotels and commercial rental establishments
- offices
- storage facilities
- industrial units



If you sell commercial property to a buyer that can recover the VAT on the transactions costs, you may be able to treat the sale as a transfer of a business. For conditions of a transfer of a business see the section “Transfer of a business.”

### **What if the property has both a commercial and residential element?**

Some properties may have both a commercial and residential element, for example a store with an apartment for rental on a long-term basis (a dwelling). Where there are separate rental contracts the treatment is quite clear; the commercial element will be subject to VAT and the residential element will be exempt from VAT.

If the property is rented under one rental contract with the charge for both the store and the apartment combined into one rental amount then the charge for the rent should be apportioned in accordance with the floor space occupied for each use or any other appropriate method that the Comptroller allows.

### **What if I rent the property to someone who resides outside The Bahamas?**

It doesn't matter where the person to whom you rent resides. The supply of land and property is considered to take place where the property is located and is therefore subject to VAT at the standard rate, unless it is a dwelling, in which case it will be exempt.

### **What if I only supply land?**

The lease, rental or hire of land located in The Bahamas is subject to VAT except if such land is principally used or intended to be used for accommodation as a dwelling which is erected or to be erected on the land is exempt from VAT.

## **What if I rent or sell property that is not located in The Bahamas?**

The sale or rental of property located outside The Bahamas is not subject to VAT in The Bahamas.

## **What if the charge includes an amount for utilities?**

If a supply of a facility is made and the total amount charged includes an amount for utilities, if the supply of the facility is a taxable supply, VAT is applied on the total charge inclusive of the utilities. It should be noted that the landlord is not the supplier of the utilities.

If the supply of the facility is an exempt supply, the total amount charged for the facility inclusive of the utilities is treated as an exempt supply.

## **What if I charge my tenants for a portion of the insurance cost?**

If the supply of the facility is taxable and includes the cost of insurance for the facility, the VAT must be applied on the total cost of the supply of the facility. It should be noted that the landlord is not the supplier of insurance and as such should not apply VAT on the insurance cost separately.

Additionally, if the supply of the facility is an exempt supply, the total amount charged for the facility inclusive of the insurance is treated as an exempt supply.

What if I supply reception, switchboard facilities, office services or equipment?

Any supply of these services, if charged for a separate fee, will be subject to VAT at the standard rate. If included in the rental amount, then they will already be captured for VAT purposes.

## What if I offer a rent free period?

With respect to a commercial property, if you offer a rent free period to entice a tenant to commit to a rental contract this will be considered as a price discount. VAT is therefore applicable on the non-discounted value of the supply. During the period where the property is made available for no supply, the supplier is still be entitled to claim input VAT credit.

## Transfer of a business

The sale of a business that makes taxable supplies is ordinarily subject to VAT; however, where certain conditions are met, the sale of the business can be treated as the transfer of a going concern which is subject to VAT at the zero rate.

### **For a commercial rental business to be treated as the transfer of a going concern:**

- the buyer must be registered for VAT;
- the property should be occupied by a tenant, or a lease has been signed, or the property is being actively marketed as available to rent; and
- the necessary documentation has to be completed, signed and filed with the Comptroller 14 days prior to the transfer.

The advantage of treating a sale of property as a transfer of a going concern is that neither the seller nor the buyer has to account for or pay VAT on the transactions. It must be noted that for the transaction to be treated as a going concern, it is the business being sold and not just the asset.

Further details of the conditions that need to be met for the transfer of a going concern can be found in Part II section 16 of the VAT Regulations.

## When do I need to register for VAT?

You should consult The Bahamas General VAT Guide on timing and other requirements for more information on registration.

## THE RECOVERY OF VAT ON PURCHASES

You should consult the Bahamas General VAT Guide on filing and recovery of VAT on inputs.

## The Law

You may find the following references to the legislation useful.

### VAT Act

#### Definitions

Part IV section 19 - registration

Part V section 29 - transfer of a going concern

Part V section 31(9) - the conversion of a condo or commercial rental establishment to a dwelling

Part V section 31(6) - self supply at the time of deregistration

Part V section 33 - place of supply

Part XII section 98 - transitional provisions

First Schedule Part II (1) - zero rate for supplies outside The Bahamas

First Schedule Part I section 5 - supply by a registrant to another registrant as a going concern

Second Schedule Part I - exempt supplies items 5, 6, and 7



## **VAT Regulations**

### Definitions

Part I Regulation 4 (4) - supply of a dwelling

Part I Regulation 4 (5) - supply of a condo or similar

Part I Regulation 10 - commercial rental establishment

Part I Regulation 11 - condos leased collectively

Third Schedule (Regulation 27) Part I - classification of real property

Third Schedule (Regulation 27) Part II - capital goods

## CONTACT US

Further information can be obtained from the Taxpayers Services help desk: 1 (242) 225 7280

Or you can contact us by email: [vatcustomerservice@bahamas.gov.bs](mailto:vatcustomerservice@bahamas.gov.bs)

Or you can write to:

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