

Value Added Tax Exemption Regarding Real Estate Purchases

Introduction

Value Added Tax (“VAT”) exemption has been brought by an amendment made to the Article 13/1(i) of the VAT Law (Law No. 3065), which entered into force on April 1, 2017. The scope, terms and conditions of the VAT exemption have been stipulated by this amendment. Accordingly, foreigners and certain Turkish citizens will benefit from the exemption, in other words, they will not be charged with VAT at the time of purchasing brand new real estate. It is especially an important benefit for foreigners who wish to purchase real estate in Turkey. This article will briefly examine the conditions of the implementation and the scope of the VAT exemption.

Type of the Real Estate

According to Article 13 of VAT Law, the exemption is applied to residential properties and commercial properties. In order to be subject of this exemption, the residential properties and the commercial properties are required to have the building license and the properties must be delivered. Properties, shops, offices, apartments, time share properties which are indicated as a residential property or commercial property in the building license are within the scope of the exemption.

Foreigners who meet these conditions to benefit from the exemption are eligible to purchase more than one residential or commercial property.

First Delivery

This exemption is only applied on the first delivery of real estate from the constructor. If the residential property or commercial property is purchased and sold to a third party, then this consecutive delivery is not regarded as the first delivery.

Pursuant to VAT Law, contract of exchange (*permutatio*) is not within the scope of the exemption, hence there are two separate delivery in such contracts. For example, in a construction agreement in return for land share, the first delivery is the delivery from landlord to constructor, and the second one is the delivery of real estate built by the constructor to the landlord in exchange for the land.

Eligible People for the Exemption

Foreign real persons who are not residing in Turkey, Turkish citizens who reside outside the country for more than six months with a work or residence permit as well as institutions which do not have an office in Turkey or do not make profit in Turkey are able to benefit from VAT exemption.

Pursuant to Personal Income Tax Law (Law No. 193), any person who resides in Turkey more than six months in one calendar year is assumed as a resident of Turkey. However, foreigners who stay in Turkey for six months or more as an employee or due to a business or particular purpose are not treated as resident.

Payment and Authentication

In order to benefit from the VAT exemption in residential property or commercial property purchase transactions, minimum 50% of the agreed amount by the parties is required to be brought and to be paid in foreign currency before the date on which the invoice for the sale was issued, and rest of the amount shall be paid by the buyer within a year in foreign currency. Besides, the money which is brought to Turkey in

foreign currency may be paid to the seller in Turkish Lira. VAT return is made after the whole amount is paid to the seller.

The fact that money is brought from abroad can be proved by a bank receipt. On the other hand, it is possible to make the payment with a credit card which is given by a foreign bank, and in this case the relevant domestic bank needs to provide a receipt or a similar document that shows the payment in foreign currency. Foreign currency may also have been brought in cash from abroad. In such a case, the document which is given by Customs Administration is used as a proof.

Time Limit

It is essential to perform the procedure in the Land Registry Office in order to benefit from the VAT exemption for residential property or commercial property purchases. Land Registry Office shall be notified that the sale is exempt from VAT, and afterwards the Directorate of the Land Registry adds an annotation to the land register stating that if the subject residential property or commercial property is sold within one year, the exempted tax will be paid with the default rate.

3

Misapplication of the Exemption

If the conditions stipulated by VAT Law are not met, the exempted tax shall be paid with the default rate and a fine for the tax loss shall be imposed. In such a case, seller and buyer will be jointly and severally liable for the total amount to be paid to the Tax Office.

GURULKAN ÇAKIR AVUKATLIK ORTAKLIĐI

Polat İş Merkezi, Offices 28-29
Mecidiyeköy 34387
Istanbul, TURKEY

T +90 212 215 30 00
M info@gurulkan.com
W www.gurulkan.com



Gurulkan Çakır Avukatlık Ortaklığı ("Gurulkan Çakır") is an attorney partnership registered at Istanbul Bar Association with a license number 105 and at the Union of Turkish Bar Associations with a license number 206.

This publication provides general information only and should not be relied upon in making any decision. It is not intended to provide legal or other advice. Gurulkan Çakır and its partners will not be liable for any loss or damage arising from reliance being placed on any of the information contained in this publication.

Before acting on any information, readers should consider the appropriateness of the information provided herein, having regard to their legal and financial status, objectives and needs. In particular, readers should seek independent professional advice prior to making any decision.

This publication may not be reproduced, in part or whole, by any process without prior written consent of Gurulkan Çakır.
