



VAT: Option to Tax

Option to Tax is a frequently misunderstood VAT topic. Opting to tax land and buildings can be beneficial in many cases, but there are some risks involved. This factsheet addresses some of the issues involved.

Why opt to tax land and buildings?

Most supplies of land and buildings (freehold, leasehold or renting) are VAT exempt. If a person makes exempt supplies, they are unable to reclaim the input tax they incurred in respect of making those supplies. Opting to tax land and buildings will mean future supplies of the property will be taxable at 20%. This means that the input tax incurred in respect of those supplies will be reclaimable.

What is covered by the option?

Only commercial properties can be opted to tax – it does not apply to dwellings. An important technicality to remember is that it is a person's **interest in land or buildings** that is opted to tax; not the land and buildings themselves. This means that if a person sells opted land, the option to tax does not transfer to the new owner.

It is possible to tax a specified area of land or a particular building. Any buildings that are subsequently built on opted land are automatically covered by the option to tax, although it is possible to exclude a new building from the effect of the option by notifying HMRC.

If a building is opted to tax and the building is demolished or destroyed, the option to tax will still apply to the land on which the building stood and to any future buildings that are constructed on the land.

How to opt to tax property

There are two stages of opting to tax – the decision and the notification.

The decision – this is quite literally a decision made to opt to tax. A clear record of the

decision should be kept, including the specific land & buildings and the date the decision was made.

The notification – HMRC should be notified of the decision within 30 days, although in some circumstances HMRC may accept a belated notification. Form VAT1614A can be used for the notification (linked below). If exempt supplies of the property have been made in the past ten years, the person may need to obtain written permission from HMRC in order to opt to tax the property.

When can the option be revoked?

An option to tax can be revoked after twenty years. HMRC must be notified.

Also, an option to tax is automatically revoked six years after a person ceased to have an interest in the property.

There is also a 'cooling off' period, which means the option to tax can be revoked within six months of it being made, provided HMRC are notified and no taxable supplies of the property were made since the option took effect.

Additional conditions apply to all of the above revocation circumstances.

Conclusion

It can be seen that once an option to tax is made, the circumstances in which it can be revoked are quite limited. Therefore, care should be taken when making the decision. Please speak to us if opting to tax property is something you are considering – we will be happy to help!

Further information

HMRC's Notice 742A: Opting to tax land & buildings can be viewed here:
<https://www.gov.uk/guidance/opting-to-tax-land-and-buildings-notice-742a>

Form VAT1614A (notification):
<https://www.gov.uk/guidance/opting-to-tax-land-and-buildings-notice-742a>