

# Temporary letting and subsequent sale of dwellings by property developers.

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**As from 10 January 2012, property developers who let residential property prior to sale were granted temporary relief from the VAT claw back that would normally arise by way of a change of use adjustment. The relief applied for a maximum of 36 months per unit if the developer was unable to sell the property due to lack of demand. If the rental period exceeded 36 months, the deemed change of use applied, based on the market value of the property on that date. This concession ceased to apply from 1 January 2018.**

Where the 36-month period expires after 31 December 2017, the developer must account for the output tax in the tax period falling on the date when the 36-month period expires. This was confirmed in Binding General Ruling (BGR) 48 along with the example below:

*“a developer that applied a dwelling for temporarily letting for the first time on 31 December 2017, must account for the output tax adjustment in the tax period within which 31 December 2020 falls”.*

SARS have recently issued BGR 55 which deals with the subsequent sale of such residential property and confirms that the sale would not be subject to VAT. The purchaser will be liable for transfer duty on the acquisition of such property.

The proper application of the change of use adjustment by property developers is currently on SARS's radar as we are seeing more and more audits arising in this regard. We therefore recommend that careful attention be paid to the expiry of the 36-month period and where such period has already expired without the relevant output tax being paid that a voluntary disclosure application be made to regularise the taxes due. Please contact your nearest PKF office for further assistance.

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