



## PROPERTY PURCHASE TAX GUIDE

We are presenting below the information concerning VAT refunds for:

1. natural persons not conducting economic activity
2. persons conducting economic activity

When purchasing an apartment the Purchaser obtains several tax benefits simultaneously:

- they purchase the property in net price (total VAT refund is made to them from any advance payment)
- they obtain income from rental of the property
- large number of costs may be deducted when calculating income tax (such as depreciation or interest on loans etc.) lowering significantly the income tax payable to the Tax Office.

### **I. Natural persons not conducting economic activity**

Deduction (refund) of VAT tax

This tax may be deducted entirely both when the client purchases an apartment on behalf of a company and as a natural person. In the latter case obtaining income from rental of the purchased apartment and charging VAT tax on this basis is a condition for receiving VAT tax refund.

In line with the principle as specified in art. 86, sec. 1 of the act from 11 March 2004 on value added tax from goods and services (Journal of Laws no.54, item 535 as amended)-further referred to as VATA, in the scope in which the goods and services are used in the purpose of conducting taxable activities, the taxpayer is entitled to decrease the amount of payable tax by the amount of charged tax. The taxpayer in this case is referred to ie. a natural person conducting individually economic activity (art. 15 sec. 1 VATA). Economic activity is understood as ie. activities of using goods on an ongoing basis for the purpose of obtaining income (art. 15 sec. 2 VATA), the goods refer to ie. premises (art. 2 point 6 VATA). Thus, economic activity in the meaning of VATA encompasses also conducting the service of rental which does not fundamentally create an obligation of establishing an economic activity as specified among others in the act of 19 November 1999- Economic Activity Act (Journal of Laws no. 101, item 1178 as amended).

VAT tax refund on the purchase of property may be executed on the basis of art. 87 sec. 5a of VATA, in case the taxpayer did not conduct any taxable actions (sale) within the accounting period. Upon an application submitted by the taxpayer with tax declaration the refund of the amount of the calculated VAT tax is realized within the period of 180 days from the day of the submission of the calculation (art. 87 sec. 5a VATA). It is possible to speed up this period up to 60 days pursuant to a written application submitted by taxpayer on the condition that he

or she provides before the tax office a financial guarantee in the amount corresponding to the amount of the requested refund.(87 sec. 5a VATA).

In order to deduct the VAT tax from the purchase of property (apartment) it is necessary to:

1. Register as an active VAT payer through VAT-R form in the appropriate tax office, preferably prior to signing the property purchase agreement (at latest before making the advance payment),
2. Upon receipt of an invoice (having made the advance payment for the purchase of apartment and the subsequent installments) from developer include it in the VAT purchase register and submit monthly VAT-7 declarations ( by 25<sup>th</sup> day of each subsequent month),
3. Submit an application on VAT tax refund within 180 days and/or application for shortening the period to 60 days and payment of financial guarantee together with a monthly tax declaration
4. The tax office executes the refund within 180 days (60 days) from the day of submission of the application to the bank account indicated in the registration form (updated form) NIP-7.

Taxation of income from rental of premises for natural persons not conducting economic activity.

Income on revenues from rental are taxed in two ways:

1. Subject to general rules in accordance with the act of 26 July 1991 on income tax from natural persons with the application of tax scale (18% and 32% since 2009). Income which constitutes revenues decreased by costs related to obtaining such revenues ie. depreciation costs of premises(2,5% rate per annum for newly built buildings/premises), equipment costs, rents and exploitation costs as well as potential interest from loans received for the purchase of the premises are subject to tax. There is a possibility to apply individual depreciation rate for older buildings/premises. It is defined on the basis of a formula:  $40 - \text{age of the building} = \text{rate of depreciation}$ , whilst the maximum rate may not exceed 10%.
2. On the basis of a flat rate in accordance with the act of 20 November 1998 on flat rate income tax for certain income obtained by natural persons. In this case revenues (without the possibility of deducting costs as above) is subject to tax. Flat rate equates to 8,5% from the total income amount.

### **I. Natural persons conducting economic activity**

Persons conducting economic activity may calculate income from rental within the framework of the conducted economic activity. In order to do so it is necessary to fulfill all formalities related to registering economic activity, bearing in mind in particular the fact, that the rental must be included in the specification of the type of the activity (PKWU 70.20)

Deduction (refund) of VAT tax

In the scope of deduction (refund) of VAT tax a natural person conducting economic activity ought to have a status of active VAT taxpayer (registered in the appropriate tax office through VAT-R form). Deduction of VAT tax from the purchase of residential premises takes place

through decreasing the tax due from the sale for the month in which an invoice of premises purchase was received ( or advance payment invoice)-(art. 86 sec. 1 VATA). In case of a difference-between surplus of calculated tax and tax due –such difference may be transferred for calculation in the subsequent accounting period or it may be requested to be refunded (art 87sec. 1 VATA).

Refund of tax difference shall take place within the period of 60 days (art art 87sec. 2 VATA) from the day of submitting the calculation by the taxpayer onto the bank account indicated while registering economic activity on the CEIDG form.

If the legitimacy of the refund requires additional verification tax office chief may extend this period until the verification of taxpayer's calculation within the framework of controlling actions, tax inspection, fiscal proceedings is completed.

Pursuant to the application submitted by taxpayer along with tax declaration tax office is obliged to refund the difference in tax within 25 days (art 87 sec. 6 VATA) counting from the date of submission in case where the amounts of calculated tax indicated in the tax declaration result from:

- 1) invoices documenting the amounts due which have been paid in full
- 2) customs documents, import declaration and decision which have been paid by the taxpayer
- 3) import of goods calculated in line with art 33a of intra-community purchase of goods, import of services or delivery of goods taxable for their purchaser, if the tax declaration includes the amount of tax due from such transactions.

In case the taxpayer did not conduct any taxable activities within the accounting period (sale) and subject to a justifiable application submitted together with the tax declaration the refund of calculated tax is realized within the period of 180 days from the date of submission of the declaration- (art 87 sec. 5a VATA).

#### Taxation of revenue from rental

Taxation of revenue from rental of premises for natural persons conducting economic activity are taxable according to the provisions of act of 26 July 1991 on income tax for natural persons. The subject of taxation is income, that is the revenue decreased by costs of obtaining such revenues ie. depreciation costs of premises(2,5% rate per annum for newly built buildings/premises), equipment costs, rents and exploitation costs as well as potential interest from loans received for the purchase of the premises are subject to tax.

Here, there is also the possibility to apply individual depreciation rate for older buildings/premises. It is defined on the basis of a formula:  $40 - \text{age of the building} = \text{rate of depreciation}$ , whilst the maximum rate may not exceed 10%.

The rate of taxation is:

- 2) Subject to general rules-tax rate of 18% and 32%
- 3) Flat tax-rate of 19% ( once the entrepreneur selects this form of taxation)

\*the content of the hereby guide ought to be treated solely and exclusively as an information source. Prior to any decisions related to taxes we recommend contacting the appropriate tax office or tax advisor.

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