

Each investor purchasing an apartment, regardless of whether he/she is conducting business activity registered in the Municipal Office or not is **entitled to deducting VAT**.

When purchasing an apartment, the investor incurs only the net cost of the apartment.

IMPORTANT INFORMATION FOR NATURAL PERSONS NOT CONDUCTING BUSINESS ACTIVITY

Pursuant to Art. 86 (1) of the Value Added Tax [hereinafter referred to as the "VAT Act"] of 11 March 2004, insofar as the goods and services are used to conduct taxable activities, the taxpayer is entitled to reducing the amount of output VAT by the amount of input VAT.

It should be emphasised that performing taxable rental-related activities on a small scale does not entail an obligation of business activity registration, referred to in the Act on Freedom of Business Activity of 2 July 2004. In your case, rental of an apartment is not subjected to such an obligation.

VAT refund is preconditioned by utilising the said apartments in whole for the purpose of performing taxable activities at 23% VAT rate (rental), not for your own needs.

Utilising an apartment partly for your own needs will result in an obligation to separately define the activities, in relation to which the right of VAT deduction exists and the activities, in relation to which such right does not exist and relevant amounts of input VAT cannot be assigned when buying the property. It means that under such circumstances you will not be entitled to deduct the whole VAT amount.

IMPORTANT!

For the purpose of VAT deduction, we recommend utilising the apartment in whole for purposes of taxable activities in a form of rental.

INSTRUCTION ON HOW TO CLAIM A VAT REFUND

In order to take advantage of the right to deduct VAT when buying an apartment you should:

- 1.** Register as an active VAT taxpayer. To this end, pursuant to Art. 96 (1) of the VAT Act, it is necessary to submit the form VAT-R (registration application) to the competent tax authority according to the place of conducting business activities subject to VAT tax. Where rental of the apartment is the only activity subject to VAT, the competent authority for the purpose of submission a VAT-R form is the head officer of the tax office in a particular town. As the date of renouncing the right to VAT exemption (field No. 38) the date of first payment of an advance towards purchasing the apartment or the date of signing preliminary agreement for the sale of the apartment (depending on whichever date is the earlier) should be provided.
- 2.** Pursuant to Art. 109 (3) of the VAT Act, in the VAT purchase records you should enter the invoices received from the seller of the apartment, documenting subsequent payments towards the purchase of the apartment (in which the taxpayer's NIP No. [Tax ID No.] is provided).
- 3.** Issue VAT invoices documenting due payment on account of rent and enter them in the VAT sales records.
- 4.** In pursuance of Art. 99 (1) of the VAT Act, file VAT returns, in which you show the amount of output and input VAT. As a general rule VAT-7 returns should be filed on a monthly basis, by the 25th day of the following month. We inform herewith that pursuant to Art. 99 (2) of the VAT Act, you can also choose an option of quarterly method of settlements. If, upon commencement of business activity, you opt for a quarterly filing VAT returns, then by the 25th day of the month following the month in which you started conducting business activity you are required to submit a statement on selection of the quarterly method of settlement to the head officer of the tax office.
- 5.** In the tax return, you may:
 - a)** reduce the amount of output VAT on account of the sale occurring in the relevant month (quarter) by the amount of input VAT on account of purchase of the apartment (in practice: there is no such possibility before issuance of the first invoice for rental of the apartment);
 - b)** carry forward the surplus of the input VAT over the output VAT to the subsequent accounting periods;
 - c)** submit an application for refund of the surplus input VAT.

Pursuant to Art. 87 of the VAT Act, VAT refund into the taxpayer's bank account shall be made:

- a)** within 60 days of the date of filing a VAT return by the taxpayer if the taxpayer performed a taxable activity, (where legitimacy of the refund requires additional verification, the head officer of the tax office may extend this time limit);
- b)** upon application of the taxpayer, within 25 days following filing a VAT return if the amounts of the input VAT shown in the return result from invoices documenting due payments, which have been paid in full;
- c)** within 180 days after filing a return by the taxpayer if the taxpayer did not conduct any taxable activity during the accounting period.

In practice, you may expect a VAT refund in 180 days, or you may choose to carry forward the surplus to the subsequent accounting periods. It will be advantageous especially in the case if you register as a VAT taxpayer shortly before receiving the expected payment of the first rent.

NATURAL PERSONS CONDUCTING BUSINESS ACTIVITY

Persons purchasing the Apartment, who already conduct business activity and have the status of an active Taxpayer, deduct VAT on account of expenditures incurred in view of purchasing this apartment in the month (quarter) when they received invoices documenting such expenditures, according to the method presented above in respect of persons who do not conduct business activity registered in the Municipal Office.

In order to receive a VAT refund related to purchasing the apartment, individuals who, while conducting business activity, availed themselves so far of VAT exemption referred to in Art. 113 of the VAT Act are required to relinquish their VAT exemption and to file a registration form VAT-R. Pursuant to Art. 113 (4) of the VAT Act, relinquishing VAT exemption is subject to filing a written notification of the same to the Head Officer of the Tax Office before the beginning of the month in which relinquishing exemption is to take place. Hence, a notification of relinquishing VAT exemption should be submitted before the beginning of the month in which the first advance will be paid, best before signing preliminary sale agreement of the apartment.

IMPORTANT!

In the case of relinquishing VAT exemption you will be required do charge VAT on the whole amount of sale under business activity conducted by you, not only resulting from rental of the apartment.

DEDUCTING VAT FROM THE PURCHASED APARTMENT IS POSSIBLE BY:

- a)** reducing, pursuant to Art. 86 (1) of the VAT Act, the amount of output VAT resulting from the sale taxable in the relevant accounting period by the amount of input VAT resulting from invoices documenting purchase of the apartment;
- b)** If the amount of input VAT in the relevant accounting period is higher than the amount of output VAT, then, pursuant to Art. 87 (1) of the VAT Act, you are entitled to reduce the amount of output VAT for the subsequent accounting periods by the amount of such difference or you are entitled to have this difference of VAT refunded into the bank account.

