

VATR 72

Facts

Mr. X is a VAT registered person and he makes both standard rated and zero-rated supplies.

He is civilly married to Mrs. Y (the “spouse”) since 7 October 1962 under the “régime légal de communauté”. The latter does not derive any income except interest on her savings account. During the course of their marriage, on 26 May 1977, Mrs. Y acquired an immovable property consisting of an old wooden structure.

Since some months, Mr. X has started the construction of a commercial building on the land acquired by his spouse. He intends to use the building partly for his own business and partly for rental of office space. Mr. X is financing the construction of the building out of his personal savings.

Mr. X has hired the services of a VAT registered building contractor who has issued VAT invoices in his name for that purpose. Mr. X has not taken any credit for input tax in his VAT returns in respect of the construction of the building.

Mr. X intends to declare all income received from the rental of office spaces in his VAT returns.

Point at issue

- (1) Whether Mr. X will be entitled to make a claim for repayment of the VAT charged by the building contractor?

Ruling

- (1) On the basis of the facts provided, it is confirmed that Mr. X may take credit for input tax and make a claim for a repayment in respect of the construction of the immovable property at the time he satisfies the Director-General that the building is used by him to make taxable supplies.
- (2) In case Mr. X takes credit for input tax and he subsequently transfers his business or ceases to carry on business, or the building or part of the building is sold or transferred, the clawback provisions in section 21(7) of the VAT Act will apply.