



## Hammond, Bogaru & Associates

### Summary of taxes on purchase and disposal of land and property

#### Purchase

VALUE ADDED TAX ("VAT")	
<p>The general rule is that the transfer of the ownership over building and/or land, as well as leasing and renting of property and land are exempted from the VAT. A Seller, or the lessor or the renter can choose to pay VAT.</p> <p>The exemption does not apply to the transfer of the ownership of land for construction purposes for new buildings. Land for construction is land whose use is to be for construction. It is deemed to be the transfer of a new building and consequently subject to VAT, if the transfer of the building is made at the latest by the 31<sup>st</sup> December of the year following the year when the building was for the first time occupied or used or transformed. A new building is a building which has been transformed in such way that the structure, nature or destination has been changed, or the cost of the modifications are at least 50% of the market value of the building after the transformation.</p>	
Purchase by Company	Purchase by Individual
<p>If the Seller is registered for VAT.</p> <p>If the Purchaser is a company registered for VAT, then the reverse taxation applies. In cash flow terms the company will not pay out VAT; the VAT is deducted in accordance with the rules.</p> <p>If the buying company is not registered for VAT, the company will pay the VAT. If the Seller is not registered for VAT he cannot charge VAT.</p>	<p>If the Seller is not registered for VAT the Seller cannot charge VAT.</p> <p>If the Seller is registered for VAT, the Purchaser will pay the VAT on the purchase. There are no reverse charge rules for VAT on purchases by individuals.</p> <p>In the situation where an individual (foreign citizen) wants to buy the land through a company and the Property directly, then the Seller should issue two different invoices. One without VAT for the land (if the Purchaser is registered for VAT) and one with VAT included for the construction</p>

NOTARY FEES	
<p>The only document which has to be signed in front of a Notary is the sale/purchase agreement for the land. If the land and building are sold together then in such a case the value of the notary fee is calculated on the total amount paid.</p> <p>In some cases the pre-sale contract in relation to land and apartment is executed in front of a notary public as well. The fee to be paid for the pre-sale agreement is calculated on the price paid on account and is deducted from the fees to be paid for the execution of the sale/purchase agreement.</p> <p>The notary fees are calculated according to a sliding scale as follows:</p>	
Value of the transaction (the price)	Notary fees:
Between 27.499 and 54.891RON	618 RON plus 1,5% from the amount exceeding the amount of 27.499 RON.
Between 54.891 and 274.562 RON	1.029 RON plus 1% from the amount exceeding the amount of 54.891 RON.
Between 274.562 and 549.231 RON	3.226 RON plus 0,75% from the amount exceeding the amount of 274.562 RON
More then 549.231 RON	5.286 RON plus 0,5% from the amount exceeding the amount of 549.231 RON.
CADASTRAL FEES	
<p>The Cadastral fees for the first registration of a building are 50 RON plus 0,05% of the value of the building as it is established for taxation purposes. The developer of a new building normally pays this tax, but some developers register the apartments directly in the name of the purchaser so the purchaser has to pay the tax.</p> <p>For the registration of a new owner (the Purchaser) has to pay a cadastral tax of 0,3% from the price when the Seller is a company; when the Seller is an individual there is no registration tax, as the tax is deducted from the income tax</p>	



withheld by the notary for the transfer.	
There is no other tax payable by a company at the time of purchase of the apartment and land.	There is no other tax payable at the time of purchase of the apartment and land.

**SALE**

Sale by Company	Sale by Individual
<b>VAT</b>	
<p>If the Purchaser is registered for VAT and the Seller is registered for VAT then the Seller will invoice the VAT mentioning that the VAT is subject to reverse taxation</p> <p>If the Purchaser is not registered for VAT then the Seller will issue a VAT invoice and the Purchaser will pay VAT.</p> <p>In the situations where an individual (foreign citizen) wants to buy the land through a company and the Property directly, then the Seller should issue two different invoices. One without VAT for the land (if the Purchaser is registered for VAT) and one with VAT included for the construction.</p>	<p>If the Seller is not registered for VAT then the Seller is not entitled to charge VAT on the sale price.</p> <p>Individuals who buy and sell on a regular basis can register as VAT payers. In the cases where they fail to do so, the Fiscal Authority can take the transfer as subject of VAT.</p>
<b>GENERAL TAXATION</b>	
<p>The proceeds of sale by a company of land and apartment will be treated as the income of the company in the normal way. A company will pay tax on its profits at the end of the year at the rate of sixteen (16) per cent on the whole</p>	<p>General Taxation. If the Seller is tax resident in Romania then the Seller is liable to taxation at the rate of 16% on the difference between the purchase price and the sale price.</p> <p>If a person wishes to sell the shares of the</p>

<p>of the profit achieved.</p> <p>If the company declares a dividend then the dividend will be taxable at the rate of sixteen (16) per cent being the income of the individual shareholder. If the recipient of the dividend is deemed to be resident in Romania then the net amount is paid. If the owner of the shares is tax resident in another country then provided the shareholder can produce a certificate from his local tax office confirm he is a registered tax payer and subject to any treaty against Double Taxation then the dividend will be paid subject to withholding tax (for the United Kingdom 10%) and the taxpayer can use the tax withheld as a tax credit against his tax liability in the country where he is tax resident.</p>	<p>company which owns a property then they are liable for the difference between the cost of the shares and the amount received on the sale of such shares.</p> <p>Consideration will have to be given at the time of the proposed sale to structure the transaction in the most tax beneficial manner.</p>
<p><b>CADASTRAL TAX</b></p>	
<p>There is not cadastral tax for a Seller except where the Seller is the developer and has to register the property for the first time.</p>	
<p><b>NOTARY FEES</b></p>	
<p>The notary fees are paid usually paid by the purchaser. See above. .</p>	

This memorandum is for information only and states the law as at June 2007; it cannot be relied upon as giving specific legal advice on any matter set out herein or otherwise. In the event that it is intended to purchase a property or land in Romania then specific advice should be obtained in respect of any taxation matter.