

## Option to Tax Changes

**Exempt supplies** of land and buildings can be converted into standard-rated supplies by the landowner making an option to tax (sometimes known as an 'election to waive exemption'). The benefit of opting is that the landowner can then recover any input tax attributable to the supplies it makes of the opted land and buildings.

New rules relating to the option to tax came into force on 1 June 2008. Much of the substance of the new Law is the same as before, but the language has been simplified. However, the rules introduce some new provisions, three of the most important being:

- Owners of property may now make a "real estate election" covering all the properties they and other members of their VAT group own, including all properties acquired after making the election. The election must be notified to HMRC within 30 days of making it in a prescribed form. Though an option applying to an individual property may still be revoked in certain circumstances, a real estate election is irrevocable once made;
- If selling a property intended for conversion to residential use, the seller's option to tax will apply unless the buyer delivers a prescribed form of certificate before exchange of contracts. The effect of the certificate is to disapply the option to tax. This differs from the previous position, which was that the option to tax did not apply unless the buyer and the seller agreed that it did;
- There is now a 'cooling off period' of six months during which an option to tax may be revoked. The period was previously three months and HMRC's permission was required. Now the option can be revoked without permission provided that certain conditions are met.

For more information please contact:

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