**Delivery of not developed buildable land and VAT implications**

On 29th of December 2017 the Tax Department has issued the interpretative circular on the above, which is based on the law 157(1)/2017, published in the official gazette on 13/11/2017 and put in to effect as from 2/1/2018.

The following disposals are exempted from imposition of VAT:

* Land located to livestock zone
* Land located to protected environmental zone
* Land located to archaeological zone
* Land located to agricultural zone

The exemption of the land as described above, is independent of the person performing the disposal or of the purpose of the disposal.

A more detail explanation of the definition of the non-buildable land is described in KDP 441/2017

* Land that is disposed by a person other than in the course of its economic activity

Under this condition the following provisions shall be considered:

1. Disposal made by a company is taxable irrespective of the nature of its activities or its purpose
2. Economic activity for the purpose of the law shall also be considered under the following principles:
3. It is exercised in an independent manner at any place, independently of the intended purpose or the results of the activity. It can be exercised by any person independently of its business or profession
4. Each case is examined in its totality, based on its own merits and criteria like:

* Systematic exercise irrespective of the presence of a profit motive or not
* It is exercised in an active and a recognizable tend for continuity
* It is measurable in value and quantity
* It is based on business principles
* The execution of taxable activities
* Exercised by persons with profit motive pursuance

are contributing factors for the classification of it as economic activity.

1. An isolated transaction is prima facie untaxable, but if it is the start of a series of transactions then it must be taxed retrospectively. In order for someone to realize the stringency of the interpretation by the CTD, the circular gives an example of exemption where, a non-professional sells a hereditary plot of a non-developed buildable land for purposes other than to make a profit once every 7 to 10 years!!!
2. The taxation of the profit under the CGT Law is not to be considered as a criterion for classifying the transaction as a non-economic activity for the purposes of the law
3. As stated previously, every such transaction falls by definition under economic activity for the purpose of the law, if effected by a company
4. The purpose or the final result does not in any way affect the interpretation of the economic activity sense

**Transitional period**

Exemption is given for:

1. Transfer of lands before the 2nd of January, 2018
2. Land sold before the 2nd of January 12, 2018 if the contract was deposited with the LRO or to the CTD

In case where condition (b) is not applied then, any amount which is received under the contract at a date after 2nd Jan 2018 shall be subject to VAT

Loan restructuring process under the law and in the course of the procedure for compulsory transfer to the lender

Under the above cases, there is no liability for imposing VAT by the seller of the land, but the buyer shall pay the VAT and at the same time reserves the right to claim it back on its output (reverse charge)