

Rental of residential properties for commercial purposes and VAT

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1. Introduction

Renting residential properties does not always mean renting for residential purposes. Increasingly, residential units are being rented for commercial purposes – such as offices, clinics, warehouses, or Airbnb activities, which involves a completely different tax approach, especially with regard to VAT.

2. Legal Basis

According to **Article 15, paragraph 2 of the VAT Act**, the business activity of charging for the rental of property – even if it is a private unit – can be considered a business activity if it is continuous and organized.

Additionally, **Article 43, paragraph 1, point 36 of the VAT Act** provides an exemption from VAT for the rental of residential properties *for residential purposes*. However, if the rental purpose is for something other than residential – the standard VAT rate applies.

3. Renting for Non-Residential Purposes - VAT Consequences

3.1. No VAT Exemption

The VAT exemption applies only to rentals for residential purposes. Renting the same unit to a natural person or a business for office, clinic, or any economic activity does not benefit from the exemption and is subject to VAT taxation.

3.2. VAT Rate

The VAT tax rate in such a case is **23%**.

4. When does a private property owner become a VAT taxpayer?

4.1. Business Activity from the Perspective of the VAT Act

If the rental is conducted regularly, is organized, and is a source of income – the landlord acts as a VAT taxpayer, regardless of whether they run a business in the CEIDG.

4.2. Example

A private individual rents an apartment to a company that uses it as an office headquarters. This action is subject to VAT – even if it has not been formally registered as a business.

5. VAT Obligations for Commercial Rental

- **Registration as an active VAT taxpayer**, if not using other exemptions (e.g., due to the turnover threshold of PLN 200,000).
- **Issuing VAT invoices** at the appropriate rate of 23%.
- **Submitting VAT declarations (JPK_V7)** and appropriate settlements with the tax office.
- **The possibility of deducting input tax** on purchases related to the rental (e.g., renovation of the premises, purchase of equipment).

6. Risks and Recommendations

- Improper application of the VAT exemption may result in the need to pay back taxes with interest.
- It is worthwhile to seek an individual interpretation if the nature of the rental raises doubts.

- Maintaining simplified records and documentation of rental in order to potentially defend the position against the tax office.

7. Summary

Renting residential properties for commercial purposes is subject to VAT at the rate of 23%, regardless of whether the owner is a registered entrepreneur. The purpose of the rental and the manner of its execution are of key importance. Property owners should carefully analyze the nature of the transaction and, if necessary, consult a tax advisor.