

The latest VAT developments that could affect you or your clients' businesses

FAQs about the “golden brick”

1 What is the “golden brick”?

The golden brick is a device for transforming a standard-rated or exempt supply of land or buildings into a zero-rated supply of a partly completed dwelling, or other building qualifying for zero-rating.

2 Why would you use the golden brick?

You might use it where:

- (a) The person buying the property cannot recover any VAT charged; and
- (b) The vendor has opted to tax and might have to pay VAT back to HMRC if they agreed to make an exempt supply; or
- (c) The vendor has opted to tax and the rules preclude the vendor from disapplying the option to tax.

3 How does it work?

Where the purchaser wants new buildings on the site, and those buildings would qualify for zero-rating (such as dwellings or communal residential buildings), instead of making an exempt supply of land or of an existing building, the vendor can sell a partly completed building. That sale is then a zero-rated taxable supply and the vendor does not suffer the adverse consequences referred to at Q2(b).



4 Does its use count as avoidance?



The golden brick would appear to have no commercial rationale and is only adopted to avoid adverse VAT consequences. However, HMRC refer to the golden brick in a number of places in their guidance in a benign and approving way. This is because it is HMRC's longstanding policy to ensure that VAT does not become an additional financial burden for new housing.

5 How much, or how little, work needs to be done to comprise a golden brick?



It must be apparent to an onlooker that the construction of a building has started. Works must be above foundation level but do not need to be above ground level. Recently a Tribunal ruled that a garden wall could constitute a golden brick.

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6 Are deposits on exchange a problem?

When you enter into a golden brick arrangement, the vendor is likely to need access to any deposit on exchange to fund the golden brick works. That means that the vendor's solicitor must receive the deposit as agent, and a tax point is created, on the face of it, at a time when all that exists is land or an existing building. However, demonstrating their benign approach to the golden brick, HMRC have said that you can treat the deposit as part payment for a partly built zero-rated building, provided the contract makes clear that this is what will pass hands at completion of the contract.

7 Can golden brick apply to zero-rated conversions?

Yes. There is a zero-rated supply where a person converts a non-residential building into dwellings or other buildings qualifying for the zero rate, and then sells either the freehold or a long lease. The supply of a golden brick in the converted building can be zero-rated so long as "real and meaningful works" have been carried out.



8 If I want to golden brick the sale of a site on which a group of zero-rated buildings will be constructed, do I have to create a golden brick for each building?

No. Once you have created a golden brick for the first of the buildings, you have turned your potentially exempt or standard-rated supply of land or an existing

building into a zero-rated supply of a partly completed building.



To discuss how this may affect your clients or your business, or to talk about a VAT issue in general - contact:

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