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Are You Thinking Of Buying A Pub – Even A Closed Down Pub?

There are many tax and other implications and complications to the above if your answer is yes. If the pub was formerly owned by a brewery and rented out to tenants then almost certainly the brewery will have opted to tax the property from a VAT point of view and would thus normally be charging VAT on probably 90% of the sale price of the pub – the other 10% being deemed to relate to the living accommodation previously in the pub.

If you are intending to buy the pub building to turn it into a house in which you will then live, to have to pay VAT to the Brewery will significantly increase your costs.

There are two routes which you can follow to overcome this hurdle, the first of which is to make an appropriate application to H M Revenue and Customs (HMRC) that the option to tax be disapplied. This has to be sent initially to the selling Brewery before contracts are exchanged. The other alternative is to ask the Brewery whether it opted to tax the property more than 20 years ago and if it did to ask the Brewery to cancel its option to tax before the sale.

If you are thinking of purchasing the pub from the Brewery to run it as a pub then provided you obtain the normal VAT invoices etc you should be able to reclaim the VAT that is charged to you. However, there are two items of bad news. Firstly, there will be the cash flow implication that you will have to pay the VAT to the brewery and may not be able to reclaim it from HMRC for three or four months and, secondly, the Stamp Duty Land Tax which you have to pay on the purchase is levied on the VAT inclusive purchase price, even though you will be able to reclaim the VAT. It has always seemed to me most unfair to tax tax.

In many instances if you buy a business as a going concern, no VAT is charged by the vendor to the purchaser under a specific relief, but one important aspect of that is that you need to be running the same type of business as the vendor. If the Brewery has been renting the pub to

tenant, the occupation of the Brewery has been as a landlord not as a publican and thus the rules leading to no VAT being charged in those circumstances are unlikely to apply.

If you are purchasing the pub to convert it into a number of flats which you then intend to rent out, you will need to seek to dis-apply the option to tax of the brewery as indicated above, as otherwise it cannot normally be reclaimed. However, provided that you are careful in how you plan the precise areas occupied by each of the new flats, as compared with the living accommodation of the publican previously, you should be able to ask any builders and tradesmen carrying out building works for you to only charge 5% VAT and not the full 20% standard rate. This will unfortunately not cover all expenditure which you might incur such as carpets, cookers, fridges, but it should cover most of the construction work.

It is estimated that 4,000 pubs will close in the UK next year with almost all of them eventually being converted into residential accommodation of one sort or another.

With a number of other retail establishments closing, similar comments could equally apply to individuals purchasing other commercial property which they intend to convert into residences or flats.

The above is for general guidance only and no action should be taken without obtaining specific advice ■

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