

Cessation of temporary letting of residential property by developers



By [Graeme Palmer](#)

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SARS released a Binding General Ruling on 25 July 2018 on the temporary letting of residential dwellings by developers, principally to provide clarity of the cessation of section 18B of the Value Added Tax Act, 1991.



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When a property developer constructs residential dwellings for resale, the VAT incurred on the development cost may be deducted. In turn the developer is obliged to levy VAT on the purchase price when the residential dwelling is sold. If there is a slump in the property market, it has been commonplace for developers to temporarily let dwellings. Historically, the difficulty that this created for developers was that SARS regarded the temporary letting as a change of use from making taxable supplies to exempt supplies. This resulted in the developer having to make an output tax adjustment calculated by applying the tax fraction of the open market value of the property when the change of use occurs.

With effect from 10 January 2012 section 18B of the Act was introduced, which allowed a developer to temporarily let dwellings for a period up to 36 months. Initially, section 18B was to cease on 1 January 2015 but was extended for three years up until 1 January 2018. Under these provisions the developer was deemed not to have made a taxable supply when the property was temporarily let, and the output tax adjustment was suspended during the relief period. The developer was only deemed to have made a taxable supply at open market value on the earlier date of the expiry of a 36-month period after concluding the lease, or the date when the developer permanently applied the property for a non-taxable purpose.

SARS has now issued a ruling to give clarity on the cessation of section 18B. According to the ruling, the 36-month period is calculated from the date that any agreement for temporary letting is entered into for the first time during the period 10 January 2012 to 31 December 2017. Where the 36-month period expires after 31 December 2017, and the property was not permanently applied for non-taxable purposes, the developer must account for the output tax in the tax period when the 36-month period expired. For example, if a developer entered into a lease for the temporary letting of a dwelling for the first time on 31 December 2017, then the developer must account for the output tax adjustment in the tax period within which 31 December 2020 falls.

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