HMRC - VATSC46800 - Examples Of Taxable Benefits For Which Reverse Premiums Constitute Consideration:

The following are examples of taxable benefits for which reverse premiums constitute consideration:-

Carrying out building works to improve the property by undertaking necessary repairs or upgrading the property. However, this does not include the situation where a tenant undertakes continuous repairs with improved materials as part of the usual obligations under a tenant repairing lease or where a tenant fits out the property at the start of the lease to the tenant’s own specification as normally agreed with the landlord.

Carrying out fitting-out or refurbishment works for which the landlord has responsibility and is paying the tenant to undertake.

Acting as anchor tenant.

Undertaking to move a business to the new property and, in so doing, dispose of old property under conditions set by the new landlord.

Care is needed when analysing the nature of reverse premiums that appear to be paid for tenants doing more than simply taking leases. This is because the payments usually result from long and complex negotiations between landlords and prospective tenants - negotiations that may result in the parties changing their respective undertakings more than once. As such, it is necessary to obtain as much documentary evidence as possible; in particular, correspondence between the parties that covers their negotiations over payments and undertakings.

Determining whether a tenant acts as an “anchor” in a development is particularly problematical. It is likely that this will occur mainly in retail projects. Simply possessing a well-known name will not automatically mean the tenant acts as an anchor.

In effect, a tenant will only be regarded as an anchor for VAT purposes if there is clear evidence the tenant has agreed to act as such, affording the landlord the right to use that tenancy generally to market the property. Publicity simply pointing out that the tenant is moving into the property is not itself sufficient to indicate anchor status.

The landlord may also use an anchor tenancy to obtain finance for the project. Again, the tenant would only be regarded as an anchor for VAT purposes if the evidence referred to above applied.

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