

No transfer duty on movables: save R560' on a transaction of R4m

Take the following scenario.

The seller sells his farm together with two tractors and farm equipment for R4m to the purchaser. The seller is not registered for VAT. The purchaser is indeed registered for VAT.

What important tax considerations are relevant?

As the seller is not registered for VAT, it will be a transfer duty transaction. Remember that the seller's VAT registration status always determines whether it is a VAT transaction or not. No VAT will therefore be payable on the transaction.

Transfer duty is only payable on the sale of the land as such and not on the movables. It is therefore advisable for the purchaser to ensure that the full value of the movables is separately stipulated in the contract of sale to ensure that no transfer duty is paid in respect thereof.

On R4m the transfer duty would be R273 000 at the current rates. If a value of R1 000 000 can be justified for the movables, the purchase price of the land can be stipulated as R3m. On R3m the transfer duty would amount to R163 000, thus a saving of R110 000!

The purchaser should also take note of his right to claim a deemed VAT input in respect on the transaction based on the current VAT rate of 15%. His claim is therefore not limited to the transfer duty amount, which will always be less than 15%. He would indeed be able to claim 15% of R3m, i.e. R450 000. The difference between the transfer duty amount and the deemed VAT input amount is therefore R287 000!

Instead of paying R273 000, the net effect of the optimal tax structuring of the transaction would be a gain of R287 000 for the purchaser. A difference of R560 000!

Volker Krüger, Van Velden-Duffey Inc