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No input tax deduction if taxable output not anticipated

A property developer acted free of charge for the local authority in an effort to increase the sales value of his property. His input tax was not deductible, even in the light of his expectation of ultimate benefit.

A property developer build roads, drains and other necessities on his estate. The work as done at his expense under an agreement with the local authority. This agreement foresaw transfer of ownership of the facilities in question to the local council, once the construction work had been completed. The developer's reason for his apparent generosity was simple - the increased sales potential for sites on the estate after development.

The Supreme Tax Court has now confirmed the tax office in its refusal to allow the developer an input tax deduction. He bore the expense for a free-of-charge delivery to the council, not itself a VAT-paying business. This was the immediate and therefore the "direct" reason for the input tax. The improved sales prospects for the sites on the estate may have been the business reason behind the decision to bear the development costs, but were not close enough to the input transaction to overshadow the initial intention of free-of-charge delivery. This intention meant that the property developer was not acting as a business during the development of the estate. He was thus also excluded from a deduction of the input tax under ther provisions for inputs of unclear destiny.

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Keywords

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