

What next for the Commercial Real Estate Sector in 2024?



11 April 2024

PRESENTED BY:

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Lisney

COMMERCIAL
REAL ESTATE

Lisney

Sotheby's

INTERNATIONAL REALTY

CONTEXT



Largest population since 1851



+ 60,000 / 1.23% people a year



Housing shortages



Modified Domestic Demand (proxy for GDP) grew in 2023



Largest household deposits on record



Full employment



Fell below 2% in March



Government surplus



Volume of retail sales growing



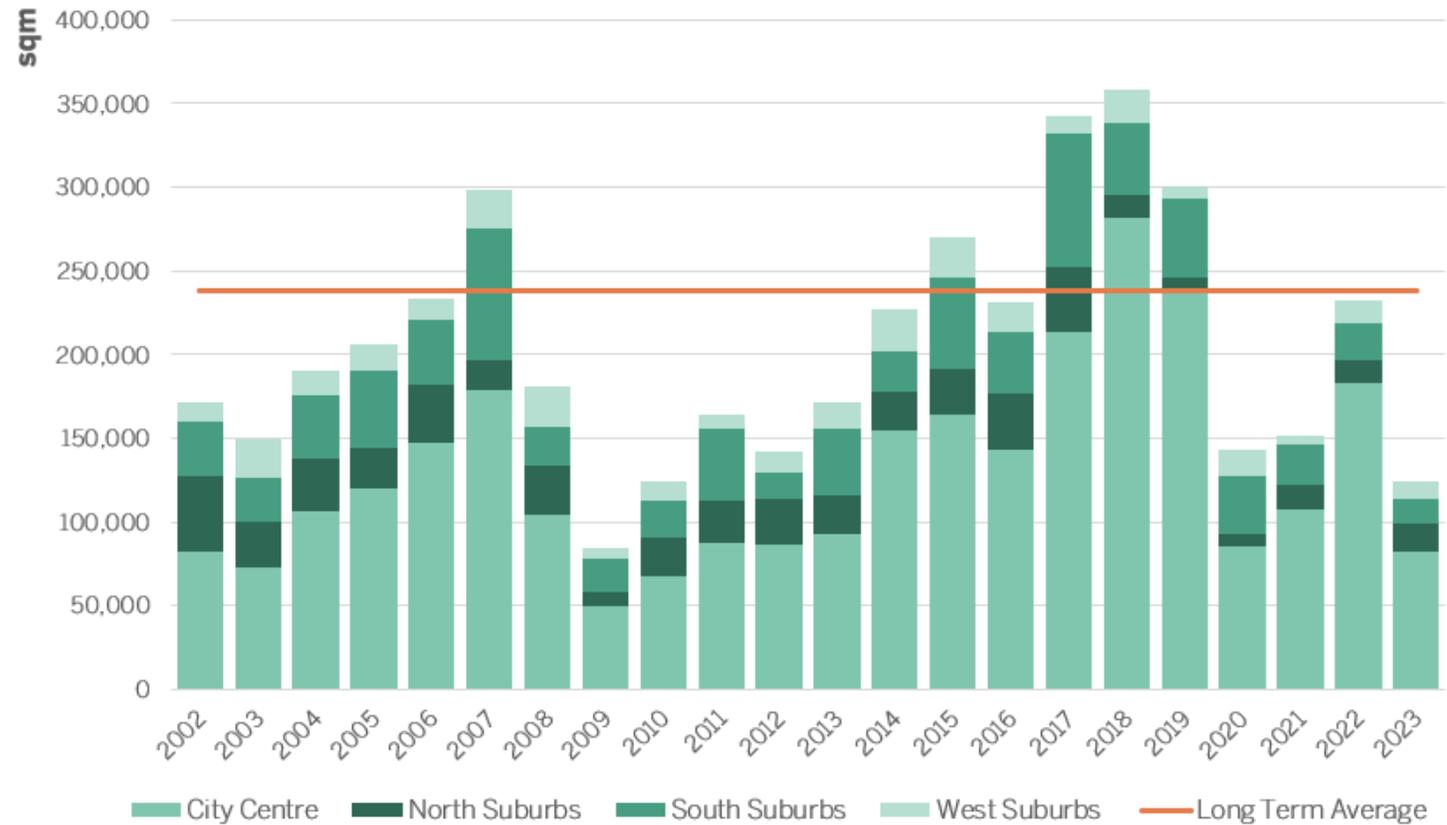
Global impact

OFFICE ACTIVITY

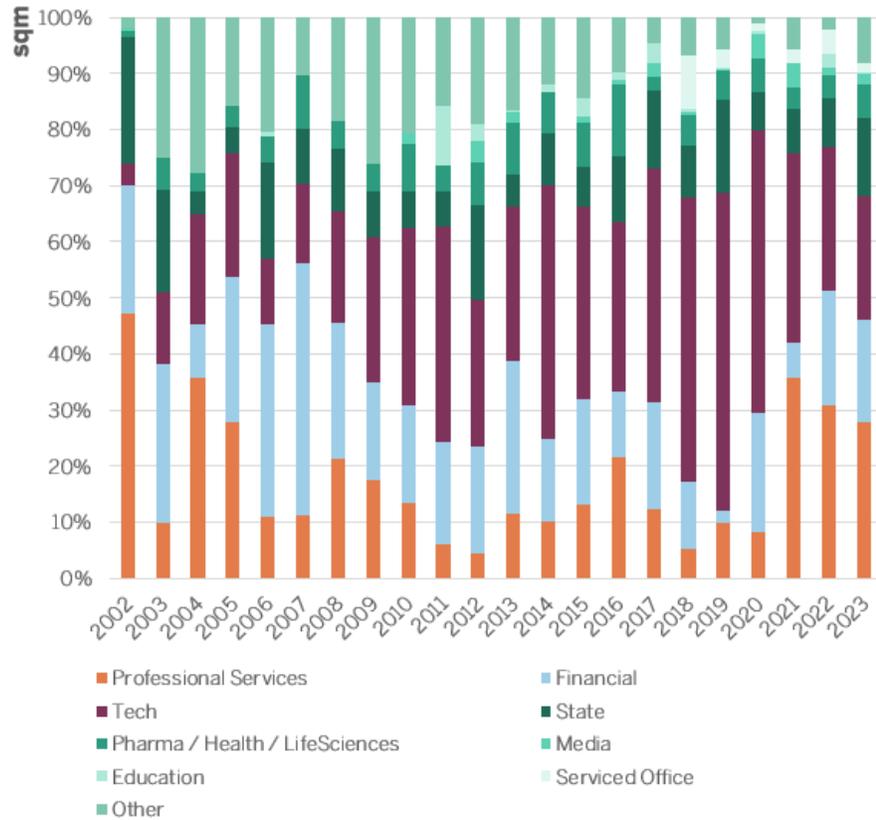
238,200

sqm

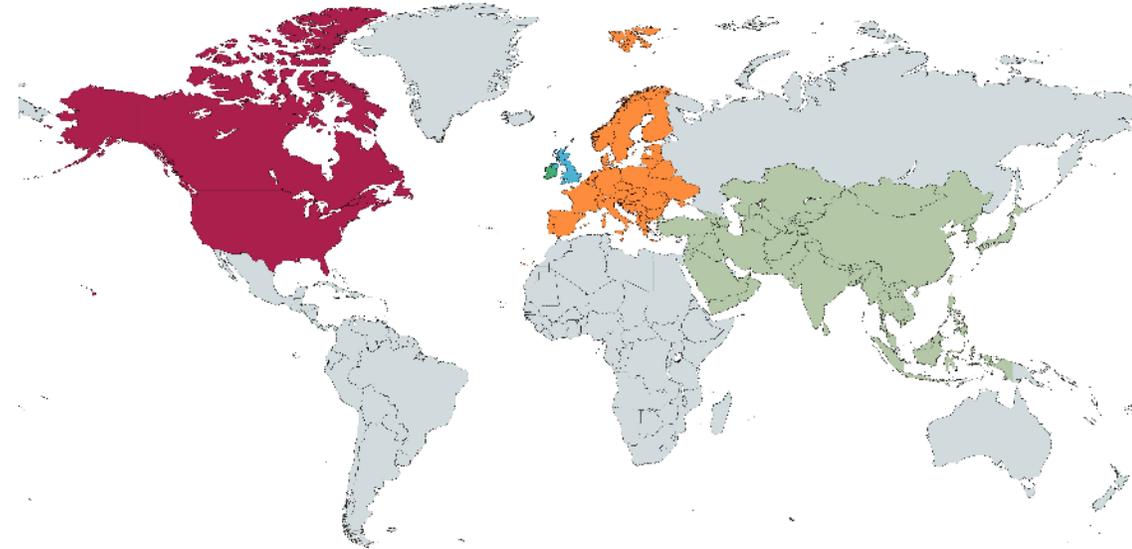
10-year annual average take-up



OFFICE ACTIVITY



Tech averages 30% of activity since 2003 / but exceeded 50% in 2018 & 2019 / 23% in last 2 years



	2023	10 Year Average
Ireland	47%	37%
United Kingdom	6%	4%
North America	34%	48%
Europe	7%	6%
Asia	0.5%	4%
Rest of the World	1%	1%

OFFICE VACANCY

16.6%
Headline Vacancy Rate
15.9% True Rate

Little or no **grey space** in the market pre-COVID, now 5.2 percentage points of the headline vacancy rate - one-third of total supply



OFFICE RENTS

€700_{psm}

(€65 psf)

Prime CBD rents +3% since pre-COVID

Gap between prime and everything else expanding

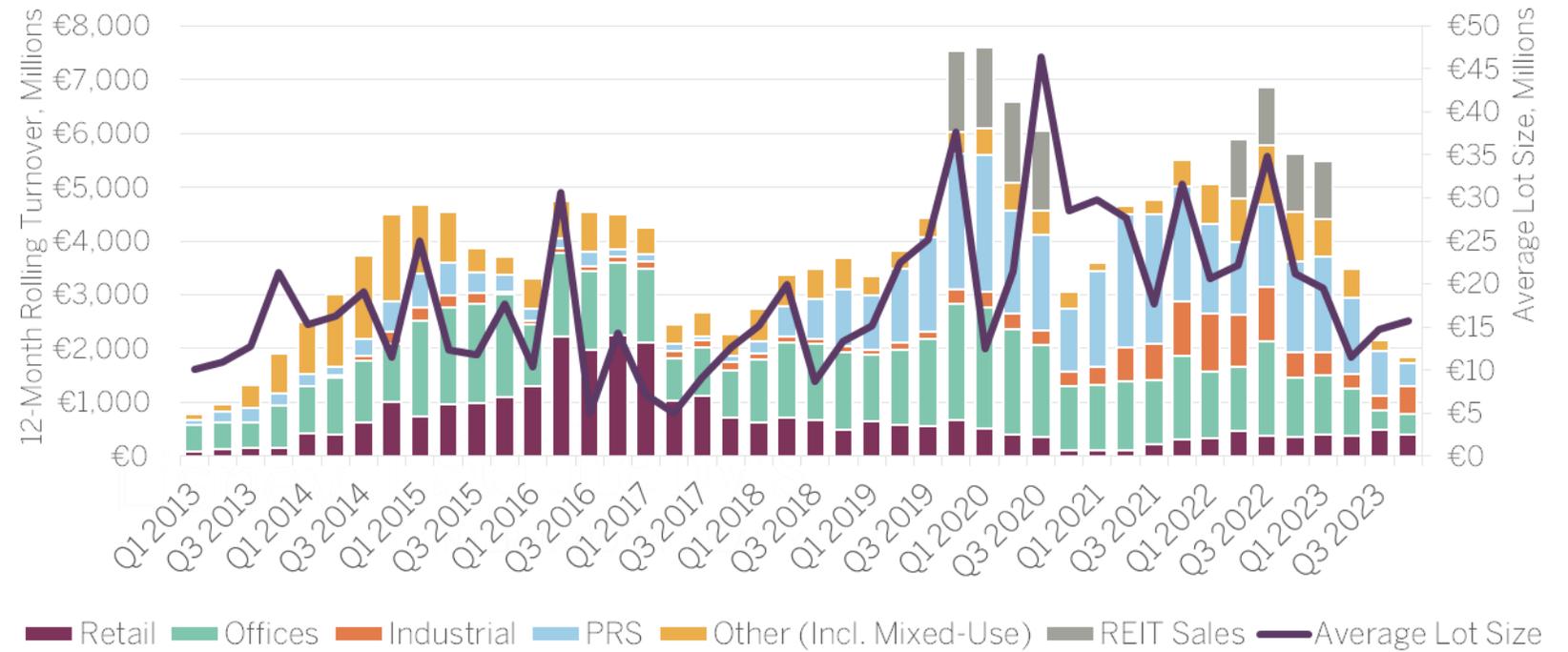


INVESTMENT TURNOVER

€3.3bn

Average Annual Turnover

€1.8bn in 2023

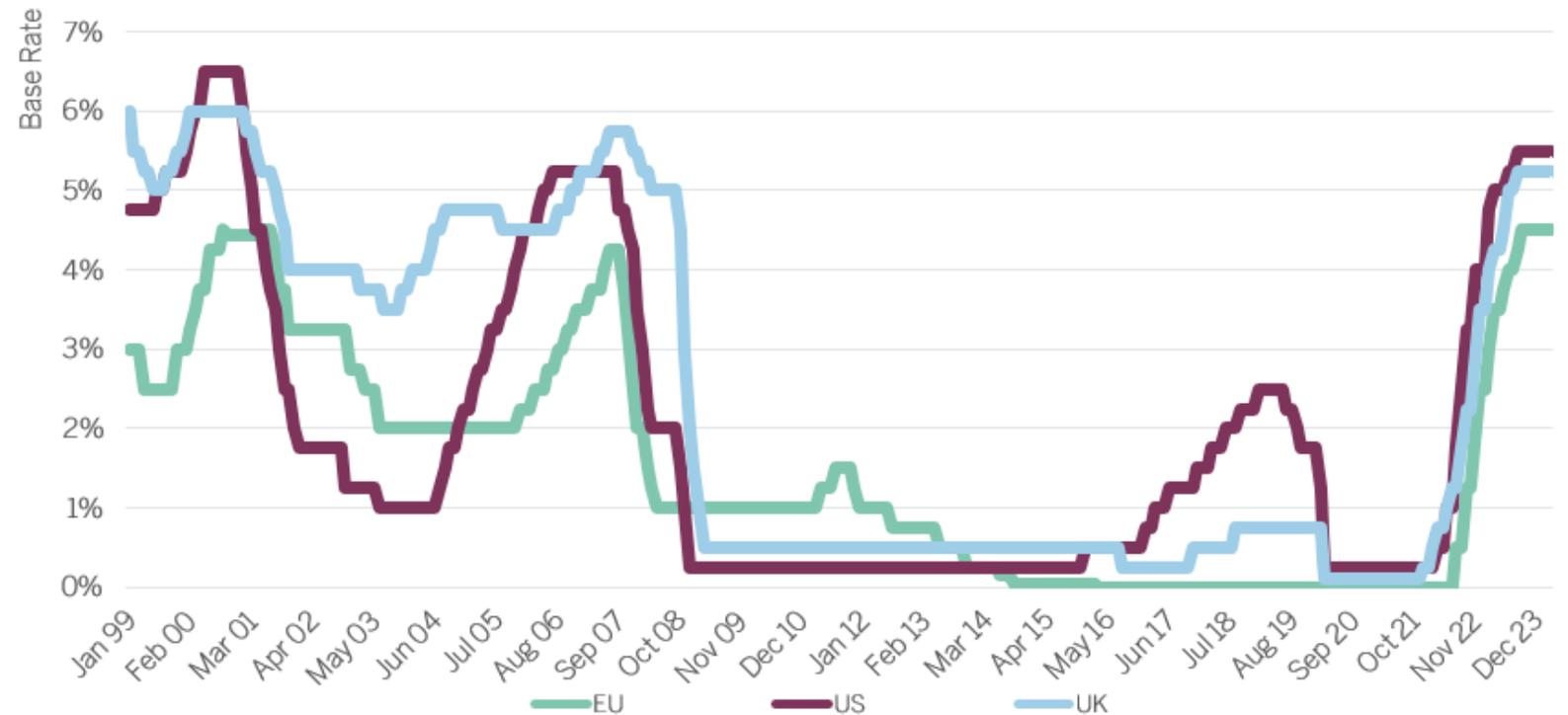


INTEREST RATES

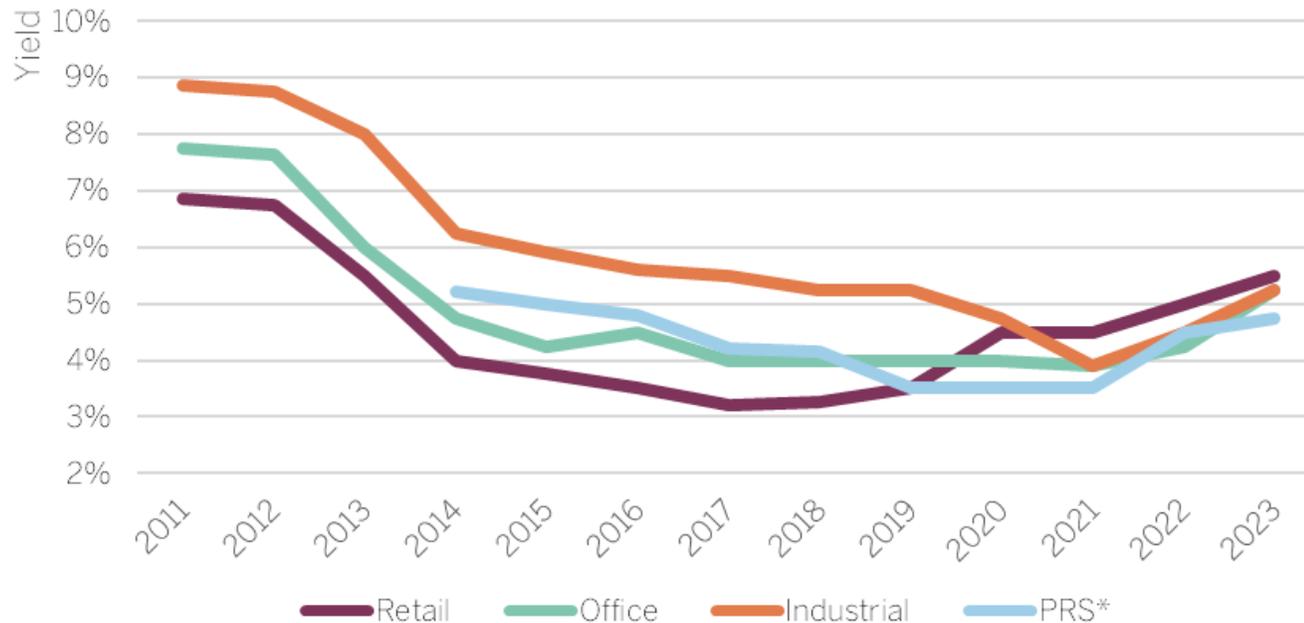
22-year
high

EU & US Interest Rates

UK 16-year high



Source: ECB, Bank of England, US Federal Reserve, Lisney analysis



* PRS yields take into account OPEX of 20%

Source: Lisney

- **Subdued market**
- **Softer yields** – reduced by 50 to 150 bps last year
- **Buyer inertia** – compounded by mismatched pricing expectations
- Evidence of more **appropriate pricing** emerging
- Larger investors expect to be back in the market in **H2 2024**
- Domestic and European **sustainability** policies will continue to impact how buildings are funded and occupied

THEMES

Lisney



Lisney

COMMERCIAL REAL ESTATE

Thank you

APRIL 24

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What next for commercial real estate sector in 2024? Legal Update

Roisin Bennett, Partner – 11 April 2024

CURRENT ISSUES

- 01 | OFFICE MARKET | Landlord and Tenant Trends
- 02 | ESG | Energy Performance of Buildings Directive (recast)
- 03 | RECENT COURT DECISIONS
- 04 | COMMERCIAL RATES
- 05 | HOUSING
- 06 | LEGISLATION

01

OFFICE MARKET

Landlord and Tenant Trends

OFFICE MARKET – LANDLORD AND TENANT ISSUES

High Quality
Space



Resilient

Lease Terms



Alternatives to rent free

Repurposing of
“grey space”



20 Kildare Street



George’s Quay

Subletting



02 ESG

Energy Performance of
Buildings Directive (recast)

ESG

- Huge issue worldwide
- Energy Performance of Buildings Directive (recast)
- Final text expected within next two months
- New Buildings NZEB by 2030 (2028 for Public Sector buildings)
- Retrofitting of existing building stock – emerging trend
- Two tier market between well performing and non well performing buildings



RECENT COURT DECISIONS

03

Landlord and Tenant Case
Updates

RECENT COURT DECISIONS



Rise in hospitality
insolvencies, lease
surrenders/repudiations



Leasehold covenants –
applications for consent to
assign



Exclusivities – Dunnes
Stores .v. Dafora



Unauthorised use/leases –
Tesco .v. Stateline
Transport

COMMERCIAL RATES

New regime since January
2024

04

COMMERCIAL RATES

	New regime since January 2024
One moiety	Cash flow issue as must be paid up for the year prior to a sale/lease
Liable person	New concept – needs consideration depending on facts
Criminal Offence	10 days to notify changes
Unpaid rates as a charge on property	No limitation
Interest	8% per annum follows liable person

Obligation to notify

Sale of owner occupied or vacant premises	Vendor and Purchaser
Sale of partially let premises	Vendor and purchaser in respect of any unlet parts
Owner vacates a property	Owner
Owner moves into a property	Owner
Grant of lease	Landlord and Tenant
Assignment of lease/sub lease	Tenant and assignee/sub lessee
Forfeiture/lease surrender	Landlord and Tenant

05 HOUSING

Planning and Development
Bill 2023

PLANNING AND DEVELOPMENT BILL 2023

Overhaul of Planning System

Push back from developers re serial planning objectors

Delivery on housing a key issue

Had been subject to pre-legislative scrutiny

Select committee on housing



LEGISLATION 06

Legislative Measures

LEGISLATIVE MEASURES

Housing for All



Regulation of
Short Term Lets

Tenant Right of
First Refusal Bill



RZLT – limited
scope for challenge

effective from early 2025

TAKE AWAYS

- ESG key factor in investment
- Capital and construction costs a challenge
- Renovation and Repurpose existing buildings
- Geopolitical factors – at home and abroad





THANK YOU

Do you have any questions?

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VAT Considerations for Property Transactions

JOHN MOORE
VAT DIRECTOR
RBK



Some VAT relevant numbers ...



11.89% / 88.11%

VAT element / retained proceeds of VAT inclusive selling price

10%

Equivalent annual interest on tax underpayment

10 & 20

Number of years/review “intervals” for refurbished and developed property

23%

VAT rate on “opted” rents or property licence

€75m

Tax yield from 79,351 Revenue interventions (to 30/04/2023)

VAT Points to Consider for any Property Transaction

- **Nature of Property**
 - Residential or commercial
 - Work and development history
 - Distressed disposal
- **Status of seller/buyer**
 - Private or business
 - Capacity to charge/Ability to recover VAT
- **Plans for Future use**
 - Develop / renovate?
 - Occupy or rent?
 - Sale? Combination of the above?
- **Under-bidders & Leverage**

Key Points for Assessment of VAT Position & Actions

- **What is the transaction?**
 - Sale of Freehold/freehold equivalent, grant of lease
- **What is your role in the transaction?**
 - Vendor / purchaser?
- **What is the commercial deal/what are the Heads of Terms?**
 - Inclusive or exclusive of VAT
- **How impossible are changes ?**
 - Price adjustment
 - Additional responsibilities
- **Who is responsible for paying any VAT ?**
 - Vendor charges or Purchaser “reverse-charges”?

What are the Goals?

- **Assist successful deal completion**
- **Maximise revenue / minimise cost (cashflow and actual)**
- **Provide cover to manage VAT risk –**
 - Historic
 - Current
 - Future obligations
- **Optimise future use options**
- **Obtain payment for VAT due**

VAT Deliberations – Property Sale Scenario

For a property seller

- Does VAT need to be charged?
 - (*Transfer of business/“Joint Option” action*)?
- Are there Vendor VAT registration / compliance matters to be considered?
- Has VAT been recovered?
- Can the purchaser recover VAT?
- Is there purchaser action / co-operation required?
- Is the Vendor’s charging and recovery position protected?
- Can payment be obtained for any VAT due?
- Are the Contract Terms fully aligned?
- Are Pre-Contract VAT Enquiries needed?

For a property purchaser

- Is the proposed VAT treatment by the Vendor appropriate?
- What is the cost impact on the purchase?
- What due diligence has been completed on the Vendor’s actions?
- Have Pre-Contract VAT Enquiries been obtained?
- Are there any uncertainties, e.g. history, CGS record(s)?
- What protection/recourse measures are needed/have been included?
- Is there leverage/necessity for a price adjustment?
- Are the Contract Terms fully aligned?
- Has a VAT invoice been delivered with VAT paid only if wholly correct?

VAT Deliberations – Property Rental Scenario

For a property landlord

- Does VAT *need* to be charged?
 - *e.g. what about an “Option to tax the rents”*
- Can VAT chargeable be collected?
- Has VAT been recovered by the Landlord?
- Is the Landlord’s VAT recovery position protected?
- Can the purchaser recover VAT?
- Are there lease Surrender issues?
- Are the Contract Terms fully aligned and future proofed?

For a tenant

- What is the cost impact for the Tenant?
- Should the Landlord’s “Option to Tax” the rents be accepted?
- What protection/recourse measures are needed/have been included in the lease agreement?
- Will VAT invoices be delivered for AP/VAT recovery?
- Is there leverage/necessity for a price adjustment?
- Are the Contract Terms fully aligned?
- What about any Tenant works / any other capital goods?
- Are there lease Surrender issues

Other Points

- **Territoriality –**
 - *Irish VAT rules are relevant to Ireland located property*
 - *Different rules for property in other territories (based on those territory rules)*
 - *VAT treatment of transaction related services (VAT charging and recovery)*
- **VAT recovery on purchase/development/transaction costs and requisite conditions**
- **Transactions involving leases/transactions dealt with under “old” VAT rules**
- **Validation of VAT treatment**
- **Application of VAT relieving measures**
- **Warranties & Indemnities**
- **Documentation for transactions**

Key Take-Away's

- 1. Take action early – including having VAT documentation / CGS Record(s) up to date**
- 2. Determine specific situation and facts**
- 3. Assess commercial position/ price leverage**
- 4. Validate VAT treatment**
- 5. Review Documentation for transactions**
- 6. Include Appropriate Contract measures**
- 7. Obtain payment for any VAT due/report VAT through VAT returns**
- 8. Consider Cash flow impacts**

RBK VAT Team



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Thank you



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Panel Discussion