



Accounts\_Tax\_Audit\_Business Consultancy

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## **WHEN IS THE SALE OF REAL ESTATE FROM A DEVELOPER ACTUALLY CONSUMMATED IN SPAIN?**

According to the latest clarification offered by the Spanish Ministry of Economy (to which the tax office belongs), a property company is considered to have transferred its rights and title when “the risks and benefits” of the development have in reality been obtained and consummated.

The effect of this is that for example if a building is considered say 80% finished in terms of construction work; it does not necessarily follow that the stage payments received up to that point, can be considered as income. An in depth analysis of the contractual obligations with both purchasers and suppliers, will need to be carried before a conclusion can be arrived at. For example if the sale contracts with third parties contemplate a buyback clause, or if the title deeds have been transferred to the ultimate purchaser, it does not necessarily follow that the property rights have been transferred.



An interesting situation, particularly since many developers have used the buyback contracts as a means of financing developments.

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