


# Navigating VAT in corporate real estate: Key considerations for landlords and tenants

18 March 2025  Tamara Hearn

Value Added Tax (VAT) plays a significant role in commercial real estate transactions, particularly in leasing arrangements.

Understanding VAT implications is crucial for both landlords and tenants, as it directly impacts leasing costs, tax liabilities, and cash flow management.

This article provides key insights into VAT considerations that both parties should be aware of when entering into or managing a lease agreement.

## 1. VAT on property leases: The basics

### Is VAT charged on rent?

By default, commercial property leases are exempt from VAT. However, landlords can opt to tax their property, meaning they elect to charge VAT at the standard rate (currently 20%) on rental payments.

### Why opt to tax?

This election allows landlords to recover VAT on associated costs, such as maintenance, refurbishment, or construction expenses. It is particularly common in newly developed or extensively refurbished properties.

## 2. How opting to tax affects tenants

### Increased costs

If a landlord opts to tax, tenants will be required to pay VAT on top of the agreed rent, increasing leasing costs.

### VAT recovery

VAT-registered tenants who use the property for VAT-taxable business activities can usually recover the VAT paid on rent. However, tenants should confirm their eligibility for VAT recovery to avoid unexpected costs.

## 3. VAT and lease negotiations

### Early discussions

VAT should be addressed early in negotiations to prevent surprises. Tenants should ask landlords whether the property is opted for VAT and consider the financial impact.

### Lease clauses

The lease should clearly state the VAT status of the rent and outline each party's responsibilities regarding VAT payments and potential changes in VAT law. Clear clauses help prevent disputes and ensure both parties are aware of their obligations.

## 4. VAT planning and compliance

### Seek professional advice

Given the complexities of VAT, both landlords and tenants should seek guidance from real estate and tax professionals, particularly for complex lease structures or when VAT recovery rights are uncertain.

### Regular reviews

VAT laws and regulations can change. Regularly reviewing VAT status and compliance ensures both parties remain aligned with legal requirements and avoid potential financial exposure.

## 5. Case law and legal precedents

### Key VAT cases

Legal decisions can shape VAT treatment in real estate transactions. For example:

- **Bruton v London & Quadrant Housing Trust** raised issues around lease validity that indirectly affected VAT treatment.
- **Targetfollow (Birmingham) Ltd v HMRC** clarified conditions under which tenants can recover VAT, influencing lease structuring to maximise tax efficiency.

## Conclusion

VAT is a critical factor in corporate real estate leasing that demands careful consideration from both landlords and tenants. By proactively managing VAT obligations, both parties can mitigate financial risk and structure leases more effectively.

At Browne Jacobson LLP, our team of [real estate and tax](#) experts can guide you through the complexities of VAT in leasing transactions, helping you make informed decisions that align with your strategic goals.

For further assistance or to discuss your specific VAT concerns, please contact our team.

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