
VGM NL Guideline for service charges when selling real estate investments

This document sets out the 'VGM NL Guideline for service charges when selling real estate investments'. With this document, VGM NL aims to serve tenants, buyers and sellers of real estate with a guideline on how to deal with service charges when selling real estate. We hope that this document will help civil notaries, lawyers, brokers, owners, investors, Fund and Asset Managers and advisors with their daily practice in the sale and/or transfer of real estate.

VGM NL rules out any liability for adverse consequences as a result of using this guideline.

1. Definitions:

* Service charges:

Service charges are the costs agreed between the landlord and tenant for supplies and services, including administrative fees, which the landlord has reasonably incurred and which he/she charges on to the user.

* Service charges balance ('the reserve'):

The balance of paid costs and collected advance payments for service years not yet settled with the tenants.

* Property:

The building and/or its surroundings for which the supplies and services are provided.

* Buyer:

The party buying the Property from the Seller.

* Seller:

The party selling the Property to the Buyer.

* Manager:

The real estate manager.

* Suppliers:

Third parties supplying goods and/or services as part of the service charges to the Property.

* Tenants:

Parties provided with the lease and/or use of the Property, against payment.

* Transport/Transfer:

The date on which the Property is transferred at the civil notary.

* Landlord:

Owner/his representative of the Property.

2. Guideline

	1. with reserve transfer	2. without reserve transfer (interim service charges settlement with the tenants)
3.1 Settlement with the tenants¹	When selling the Property during the (service charges) year, no (interim) settlement with the tenants takes place. The reason is that, based on commercial considerations, the tenants do not wish to be burdened with an interim service charges settlement. The Seller (or the Manager on his behalf) draws up an interim (draft) settlement, including a specification per tenant/vacancy period (with applicable allocation formulas), copies of all invoices and all relevant correspondence and the last service charges settlement as input for the Buyer (or his Manager). The Buyer inherits the service charges balance (the 'reserve') from the Seller. This sets out a consistent line of conduct towards the tenants. Buyer will settle the service charges for the current year with the tenants and with the owner for the period of vacancy. Buyer must realise that the collection risk (in the event that advance payments are lower than the costs) and any disputes regarding the service charges settlement will transfer to the Buyer.	When selling the Property, the service charges are settled with the tenants by the Seller (or his Manager). The Seller (or his Manager) receives copies of the service charges settlement, including a specification per tenant/vacancy period (with applicable allocation formulas), copies of all invoices and all relevant correspondence and the last service charges settlement. A new (broken) service fee year starts at the Buyer's risk and expense per the transfer date.
3.2 Transfer of service charges	The Seller (or his Manager) notifies the Buyer (or his Manager) of the budget plan for the current service charges year. The Seller (or his Manager) also provides the Buyer (or his Manager) with a copy of the service charges settlement for the previous service charges year.	The Seller (or his Manager) notifies the Buyer (or his Manager) of the budget plan for the current service charges year. The Seller (or his Manager) also provides the Buyer (or his Manager) with a copy of the service charges settlement for the previous service charges year.
3.3 Transfer of service charges balance	When selling a Property, the Buyer and Seller agree how and when the service charges balance for the current service year will be transferred. The most practical option is to do so four months after the transfer of the Property. Another option is to arrange a provisional transfer with the notarial transfer deed, and a definitive transfer at a later date. The Seller (or his Manager) draws up an overview of the invoiced advance payments, of the bills received from the suppliers, and of the administration costs. The invoiced advance payments should include the Seller's contribution to the service charges for the period of vacancy (if applicable). Seller declares that there are no further obligations towards suppliers regarding completed (previous) periods. It must also be indicated whether invoices are (partially) exempted from VAT invoicing, and/or if the passed on VAT regulation applies.	not applicable

¹ Note: in case of a period of vacancy in the Property, agreements must be made on the division of service charges during the vacancy period between Seller and Buyer.

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3.4 Transfer of contracts	Buyer and Seller agree to continue the current service contracts. If Buyer does not wish to accept the contracts, then the current service contracts will be terminated by the Seller (or his Manager). If the Buyer does accept the service contracts with Suppliers, then the Seller (or his Manager) will notify the Suppliers that the Seller is ending the current contracts and the Buyer will continue them. The Buyer (or his Manager) will arrange that the Buyer continues these contracts.	Buyer and Seller agree whether Buyer will continue the current service contracts. If Buyer does not wish to accept the contracts, then the current service contracts will be terminated by the Seller (or his Manager). If the Buyer does accept the service contracts with Suppliers, then the Seller (or his Manager) will notify the Suppliers that the Seller is ending the current contracts and the Buyer will continue them. The Buyer (or his Manager) will arrange that the Buyer continues these contracts.
3.5 Transfer status of works²	The Seller (or his Manager) will notify the Buyer (or his Manager) of any ongoing matters, works, instructions and issues, on the basis of a clear checklist.	The Seller (or his Manager) will notify the Buyer (or his Manager) of any ongoing matters, works, instructions and issues, on the basis of a clear checklist.
3.6 Addressing of invoices³	The Suppliers must ensure that the invoices are addressed correctly to the Buyer, as instructed by both Managers. The (starting) date of supply determines the addressing: supplies before the transfer date must be invoiced to the Seller, and supplies after the transfer date must be invoiced to the Buyer.	The Suppliers must ensure that the invoices are addressed correctly to the Buyer, as instructed by both Managers. The (starting) date of supply determines the addressing: supplies before the transfer date must be invoiced to the Seller, and supplies after the transfer date must be invoiced to the Buyer.
3.7 Reporting meter readings	The Seller (or his Manager) notifies the Buyer (or his Manager) of the meter readings (main and additional meters) with the information per connection, per Property transfer date (or in direct vicinity of that date). The meter readings as used in the last service charges settlement are provided to the Buyer (or his Manager) by the Seller (or his Manager).	The Seller (or his Manager) notifies the Buyer (or his Manager) of the meter readings (main and additional meters) with the information per connection, per Property transfer date (or in direct vicinity of that date). The meter readings as used in the last service charges settlement are provided to the Buyer (or his Manager) by the Seller (or his Manager).
3.8 Occasional invoices received post-transfer	The Seller (or his Manager) will instruct all Suppliers to submit all invoices (debit and credit) within 21 days after cancelling his contracts. It may happen that Suppliers send invoices after the transfer date of the reserve that apply to the period before the transfer of the reserve. These invoices are often addressed to the Seller. The Seller (or his Manager) will request the Supplier to reissue new invoices, addressed to the Buyer, which can be filed and paid by the Buyer (or his Manager).	The Seller (or his Manager) will instruct all Suppliers to submit all invoices (debit and credit) within 21 days after cancelling his contracts. It may happen that Suppliers send invoices after the transfer date that apply to the period before the transfer. These invoices are often addressed to the Seller. The Seller (or his Manager) will include these in the (interim) service charges settlement.

² Note: in the event of a vacancy period in the Property, this must be taken into account in the transfer.

³ Note: utility companies attach specific requirements to the documents needed to transfer contracts from the Seller's name to the Buyer's name. This process can take some time. Until the contract transfer has been effected, the invoices will continue to be addressed to the Seller (the formal contract holder).

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3.9 Administrative fee	The Manager on behalf of the Seller processes the administrative fee agreed with the tenants for the invoices processed by this Manager (filed and paid). The actual settlement of the administrative fee depends on the arrangements between managers and clients.	The Manager on behalf of the Seller processes the administrative fee agreed with the tenants in the settlement for the period until the transfer. The Manager on behalf of the Buyer processes the administrative fee agreed with the tenants in the settlement for the period after the transfer.
3.10 Turnaround time	The administrative processing of the services fees must be completed within four months after the Property transfer. Buyer, Seller and both Managers will commit to this.	The administrative processing of the services fees must be completed within four months after the Property transfer. Buyer, Seller and both Managers will commit to this.