



**T**he following is an urgent notice for conveyancers issued jointly by the Taxation Committee and the Conveyancing Committee.

With effect from 26/3/1997, radical new provisions apply in relation to VAT on property transactions. In future, that date will be a reference point for VAT and property along with 1 November 1972.

#### **Special rules for valuing assignments and surrenders of leases**

A landlord is accountable for VAT on the granting of a lease of vatable property for a term in excess of ten years. VAT is calculated by reference to the capitalised value of the lease so created. The method of calculation is set out in VAT regulations 1979 (SI 63/1979) Regulation 19. From 26/3/97, whether consideration is paid or not, assignments and surrenders of leases of vatable property will be chargeable to VAT on the capitalised value calculated under Regulation 19 had a lease of the property been granted under open market conditions for the residue of the term of the lease surrendered or assigned.

#### **Reverse charges for assignees/landlords**

With effect from 26/3/97, as a general rule (see new section 4 (8) of the VAT Act, 1972), where there has been an assignment or surrender of lease of vatable leasehold property, the assignee or surrenderee is the accountable person and must account for VAT on a reverse charge basis on the assignment or surrender but, because this does not apply universally, there is potential for tax traps.

#### **Special warning on options which are allowed to lapse**

In certain circumstances, permitting an option to extend a lease of vatable property to lapse can be treated as a surrender of a lease for VAT purposes, with the landlord generally being the accountable person.

#### **Preservation of property within VAT net**

A new concept of the 'VAT life or after life' of an assigned or surrendered lease has been introduced to ensure that certain transactions (assignments and surrenders) which would otherwise prematurely take vatable leasehold properties out of the VAT net will not now have that effect. During the VAT life or after life of the assigned or surrendered lease, further disposals of freehold or leasehold interests in the property may be subject to VAT.

#### **Desirability of keeping records**

From now on, keeping a careful record of the VAT history of a property is likely to pay dividends as such information may be required by both landlords and tenants to ascertain a future liability to tax.

## **NEW REGIME FOR VAT ON PROPERTY TRANSACTIONS**



**NEW REGIME FOR  
VAT ON PROPERTY  
TRANSACTIONS**

(Contd.)

**Failure to comply with legislation**

The Revenue has made it clear recently that, even in situations where there is no net loss of VAT to the State, in future it may be seeking to enforce fines for compliance irregularities. Failure to advise a client to comply with VAT legislation can expose a practitioner to a negligence claim.

**Other remarks**

This does not purport to be a definitive statement of the law. It is merely a pointer to some of the more important features of the new regime. When acting in transactions which they feel may be affected by this new legislation, practitioners should be extremely careful and, if in doubt, take expert advice. Although complex, the new legislation is well within the competence of solicitors to master if reasonable efforts are made to study it.

The Revenue Commissioners have been asked to defer implementation of the legislation to allow a reasonable time for familiarisation but have not responded positively. It is hoped that a seminar can be organised in the near future to enable practitioners to become more fully informed. The Revenue Commissioners intend to issue a practice note explaining the new legislation in June.

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