



**STAMP DUTY  
WHERE  
CONSIDERATION  
FOR A SALE OR  
LEASE INCLUDES  
VAT**

**T**he Conveyancing Committee was recently asked by practitioners to ascertain the Revenue Commissioners' requirements in relation to the stamping of deeds where the consideration for a sale or lease includes VAT. Some practitioners had reported to the committee their experience of being asked by Revenue to produce VAT invoices or VAT receipts in circumstances where they had lodged transfers, conveyances or leases for assessment for stamp duty purposes accompanied by PD form and contract for sale and/or building agreement.

The committee has received confirmation from the Revenue as follows:-

*“Sections 48 and 56 of the Stamp Duties Consolidation Act 1999 provide that the chargeable consideration for stamp duty purposes is to exclude any VAT chargeable under Section 2 of the VAT Act 1972 on the sale or lease.*

*“While it is not normal practice to seek VAT invoices or receipts where the above provisions apply evidence, in the form of invoices or receipts, has been sought where the VAT position has not been clear from the documentation furnished. Where the VAT position is clearly set out in the Contract for Sale and/or Building Contract there should be no necessity for production of any further evidence in support of the exclusion of VAT from the chargeable consideration. If the VAT position is not reflected in the Contracts and the exclusion of VAT is being claimed the solicitor should clearly outline the VAT position in a covering letter showing how the net of VAT consideration has been calculated. The production of VAT invoices or receipts should only arise where there is some element of doubt regarding the VAT treatment of the transaction.”*

It is very important that the correct VAT position is outlined at the date of stamping to ensure that your client does not pay stamp duty on the VAT element of the price.

If members are encountering any difficulties in relation to the VAT treatment of a particular transaction the matter in the first instance should be raised with the management of the relevant Stamp Duty Office and if necessary they can revert to the committee which may be able to take the matter up with Revenue on their behalf if there continues to be a difficulty in this area.