



**VAT ON
PROPERTY
TRANSACTIONS
A WORD OF
WARNING**

The Conveyancing Committee has been contacted by a number of practitioners who have encountered difficulties in the area of Value Added Tax on property transactions.

One such difficulty arose where a vendor's solicitor inserted into a contract for sale the usual clause which provided that the purchaser would pay to the vendor any Value Added Tax which would be chargeable upon the transaction. The purchaser's solicitor, acting in good faith and upon production of what appeared to be a valid VAT invoice, paid to the vendor's solicitor at closing the amount of VAT sought only to have his claim for a refund of this VAT disallowed by the Inspector of Taxes later on the grounds that VAT should not have been charged on the transaction in that particular case because it related to the sale of a business as a going concern.

Quite clearly, it is not safe to assume that if one pays VAT on foot of an invoice bearing all the usual characteristics that a refund of such VAT will automatically issue. A claim for a refund might well be refused on the grounds that the particular transaction, for any one of a number of reasons, might be one which does not give rise to a VAT charge.

The Committee recognises that the question of whether VAT should or should not be chargeable on a particular transaction is a complex one and often depends on factors which a purchaser will not be able to ascertain. In the light of this, the Committee has made representations to the Inspector of Taxes and the Inspector, in recognising the difficulties, has suggested that the purchaser's solicitors might contact the Inspector and show him the particular invoice on foot of which payment is sought so as:-

- (a) to get a direction as to whether the particular transaction gives rise to a charge for VAT, and
- (b) to ascertain whether a refund will be forthcoming without problems if payment is made on foot of that invoice.

Accordingly, the committee recommends that practitioners should, in a situation where they are in any way doubtful, contact the Inspector of Taxes as outlined. The Committee has been assured of prompt attention on all such enquiries.