



### CERTIFICATES OF DISCHARGE FROM CAT

A number of queries have been received by the Conveyancing Committee with regard to the acceptability of conditional Certificates of Discharge from Capital Acquisitions Tax (CAT) where the time limit has expired.

A conditional certificate provides that, in the event of any variation from the market value accepted for tax on any portion of the property covered by it, occurring as a result of a sale or compulsory acquisition within a period of (in the case of agricultural property) six years, and, (in the case of other property) three years, the taxable value of the gift/inheritance may be subject to adjustment.

The argument has been made that, where a vendor is disposing of property and holds a certificate of conditional discharge, there is no necessity for an absolute certificate if the disposition occurs outside the time limit specified in the conditional certificate on the basis that the condition has withered. The difficulty with this argument is that it does not take account of the possibility of a prior transfer of *part* of the property which may have taken place within the limitation period. If this occurs then, although the subsequent disposition may have taken place outside the limitation period, a liability for tax may attach to it as a result of the earlier disposition.

It is the view of the Conveyancing Committee that a purchaser should not be obliged to enquire into the existence of earlier dispositions and is entitled in all cases to an absolute Certificate of Discharge from CAT. The vendor's solicitor should experience no difficulty or delay in obtaining such a certificate provided, of course, that no tax is payable.

Purchasers' solicitors will keep in mind, however, that property comprised in a taxable gift or taxable inheritance shall not remain charged as against a bona fide purchaser or mortgagee for full consideration after the expiration of twelve years from the date of the gift or inheritance (section 47 Capital Acquisitions Tax Act, 1976).