

Revenue Commissioners

# Tax Briefing No 81

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# Confirmation of the time of supply for VAT on property transactions

Section 52 of the Land and Conveyancing Law Reform Act 2009 is due to come into operation on 1 December 2009. The text of the section is replicated below.

"52.—(1) Subject to subsection (2), the entire beneficial interest passes to the purchaser on the making, after the commencement of this Chapter, of an enforceable contract for the sale or other disposition of land.

(2) Subsection (1) does not affect—

(a) the obligation of the vendor to maintain the land so long as possession of it is retained, or

(b) the liability of the vendor for loss or damage under any contractual provision dealing with such risk, or

(c) the vendor's right to rescind the contract for failure by the purchaser to complete or other breach of the contract, or

(d) any provision to the contrary in the contract."

The fact that this section provides that the beneficial interest in relation to land passes on the making (signing) of an enforceable contract has given rise to questions as to whether or not the section impacts on the time of supply (tax point) for VAT purposes in relation to property transactions. Revenue can confirm that there is no change in the existing position for the determination of the time of supply for property transactions.

The time of supply for property transactions is determined by section 3(1C) of the Value-Added Tax Act 1972 (as amended) which states:

"For the purposes of this Act in the case of immovable goods "supply" in relation to goods shall be regarded as including –

(a) the transfer in substance of the right to dispose of immovable goods as owner or the transfer in substance of the right to dispose of immovable goods."

As section 52 of the Land and Conveyancing Law Reform Act 2009 does not confer on the purchaser the right to dispose of the property as owner, the time of supply for VAT purposes is unaffected by the introduction of the section.

## Time of supply – (same criteria as previously)

The transfer of the right to dispose of property as owner is usually regarded as taking place when the contract for sale of the property is **completed**. In practice, this generally entails the payment of the full consideration due under the contract. In the more straightforward situation of a contract for sale, with a deposit being paid and the balance being paid on completion of the contract, the supply will be regarded as taking place on completion of the contract, with the payment or deposit received by the vendor before the supply is completed being subject to VAT in the hands of the vendor on receipt of payment.

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