

## Tax Bulletin – Short Term Lettings to Connected Persons – VAT Changes Occurring on 1 July 2008

The new VAT on property rules come into force on 1 July 2008. In our last Tax Bulletin we outlined the impact these new rules will have on existing property structures and proposed transactions. One existing property structure that will be affected is lettings between connected persons where a waiver or exemption is in place. Such arrangements allowed the landlord to reclaim the upfront VAT charged to him on the acquisition and/or development of the property on the understanding that he would then have to charge VAT on the rents arising from the letting.

The term “connected persons” is widely defined in the legislation. The rules, which determine how individuals, bodies of persons or companies are deemed to be connected for the purposes of the legislation, are complex and need to be carefully considered in each case.

On 1 July 2008 a waiver of exemption in place for a letting with a connected party will automatically cease, resulting in a VAT liability for the Landlord, unless;

- the tenant has 90% VAT recovery or;
- the annual rent payable on foot of the letting agreement meets a minimum threshold figure.

The minimum rent amount will differ from letting to letting and is based on a formula that determines how much rent would need to be charged by a landlord to ensure that the VAT reclaimed day one is paid back within 12 years at the latest.

The amount of VAT the Landlord will have to repay to Revenue will be the difference between the amount of VAT reclaimed on the acquisition and/or development of the property and the amount of VAT charged and remitted on the rents.

Landlords who have entered into short term lettings with connected parties and are charging VAT on the rents need to review the agreements they have in place with their tenants. If the tenant does not have at least 90% VAT recovery then the terms of the letting need to be checked to see if the rent is adequate to avoid an automatic VAT liability for the landlord. If the rent does not satisfy the minimum threshold figure then landlords would need to consider whether it would be advisable to increase the rent payable by the tenant to at least this figure before 1 July 2008, and to document it appropriately, because after that date it will be too late to do anything about it.

For further information on this or any tax matter, please contact John Cuddigan ([john.cuddigan@rdj.ie](mailto:john.cuddigan@rdj.ie)), Eoin Tobin, ([eoin.tobin@rdj.ie](mailto:eoin.tobin@rdj.ie)) or Anne Ledwidge ([anne.ledwidge@rdj.ie](mailto:anne.ledwidge@rdj.ie)) at 021-4802700