

VAT treatment of disbursements

Hay & Kilner will issue both invoices and a Completion statement throughout the provision of any transactional advice provided. Included on the invoice will be additional items, previously included on the Completion Statement, where VAT is now applicable where the charges were not previously subject to VAT. Recent guidance produced by the Law Society amends how law firms are required to apply VAT on disbursements. Alongside the Law Society, HMRC guidance highlights cases that have appeared at the First Tier Tax Tribunal and Court of Appeal demonstrating this treatment.

Disbursement - Definition

A disbursement constitutes a payment made to a third party in connection with the matter dealt with on the client's behalf. The Solicitors Act 1974 defines it as "*costs payable in the discharge of a liability properly incurred by him on behalf of the party to be charged with the bill*".

What has changed and why?

There has been no change to the definition of a disbursement, but the way this is interpreted has been further clarified following recent cases.

Law firms have now been advised to consider what is classed as a "disbursement" with more detail as a result of the recent case findings.

Anything deemed to constitute part of the services provided to you will now be classed as a VATable disbursement.

For example

- ***Land Registry documents - official copies, priority searches and land charges search***
The Land Registry does not charge VAT on its fees for providing copy title documentation. We are now required to charge VAT when these fees are charged to our clients due to our consideration and review of the documents contributing our advice provided.
- ***Other Property and Bankruptcy searches***
We are now required to charge VAT when we pass on the costs of those elements where VAT regardless of whether the initial charge from the agency included VAT. The information gained from these searches would determine the advice provided

Anything that remains a straightforward repayment of a third-party cost paid on behalf of the client, with no impact on the matter in question, would remain as a non-VATable disbursement.

Client considerations

VAT registered clients should be entitled to claim the VAT back through their VAT returns. The treatment of all items will be detailed on our invoice.

For individuals or businesses who are not VAT registered, the VAT will be an additional cost to you.