

### **Transfer of Going Concern (TGOC)**

In a recent VAT tribunal case, a taxpayer had taken a tenancy of a pub in November 2003. Until late 2003 the pub had been owned by a company but was let to a licensee. In November 2003 the old owner sold the pub. It removed the bar and cellar equipment and granted vacant possession. The taxpayer became the new tenant. After a short break in trading the pub reopened under the same name. The taxpayer registered for VAT with effect from 1 August 2004. Customs made assessments on the basis that the taxpayer had taken over the business as a going concern in November 2003 and should have been registered for VAT from that date. The taxpayer appealed to the tribunal claiming that there had not been a TGOC provisions in that there was no link between the tax payer and the former licensee/tenant. The Tribunal considered that H could not have continued to trade on taking over the pub. The original freeholder had removed its bar and cellar equipment and without it the pub could not continue trade. The taxpayer did not acquire the business of the pub, he acquired its assets. There was no transfer of the tenancy and no transfer of the goodwill. The tribunal allowed the appeal in favour of the taxpayer.