

## CHAPTER 5

### SCHEDULE 8 VATA 1994 - ZERO-RATING

#### 5.1 Introduction

Schedule 8 to the VAT Act 1994 is simply a list of zero-rated items. These items have been collated into sixteen groups.

[VATA 1994,  
Sch 8](#)

- Group 1 is food
- Group 2 is sewerage and water
- Group 3 is books
- Group 4 is talking books for the blind and handicapped and wireless sets for the blind
- Group 5 is the construction of buildings
- Group 6 is protected buildings
- Group 7 is international services
- Group 8 is transport
- Group 9 is caravans and houseboats
- Group 10 is gold
- Group 11 is bank notes
- Group 12 is drugs, medicines and aids for the handicapped
- Group 13 is imports and exports
- Group 14 is tax free shops
- Group 15 is charities
- Group 16 is clothing and footwear.

If any particular supply falls within one of these Groups, then that supply will be zero-rated.

This chapter will look at the more common Groups.

#### 5.2 Group 1 - Food

Group 1, Schedule 8, VATA 1994 zero rates the supply of food.

There are however, many exceptions to the zero-rating of food.

### **The main exceptions – foodstuffs**

Group 1 lists a number of quite specific exceptions where the supply of the foodstuff itself is standard-rated. Examples are:

- ice cream, ice lollies, frozen yoghurt etc;
- sweets and chocolate biscuits, but not cakes and not “non-chocolate” biscuits;
- “beverages” other than milk, tea, cocoa and coffee, and “meat extracts” such as Bovril;
- “snacks” which are made from potato, “swelled cereals” (i.e. popcorn) and “nuts other than nuts in shell”.

There are cases about the borderlines of the definitions of these items, such as whether a Jaffa cake is a chocolate biscuit or a cake, and more recently whether Pringles are made from potato.

### **Catering**

The bigger problem tends to be that “catering” is a standard-rated service. A “caterer” can therefore buy in zero-rated ingredients from suppliers, and turn them into a standard-rated supply to customers. Whether a supply is catering depends on the facts of the case, but the following principles and examples illustrate the borderlines.

#### **“For consumption on the premises”**

The law states that catering includes “any supply [of food] for consumption on the premises on which it is supplied”.

This raises two questions:

- what are “the premises on which it is supplied”?
- is there an expectation or intention that the food will be consumed on the premises?

Clearly some supplies give no problem. Meals served in restaurants are catering; food supplied in conjunction with an event such as a wedding reception will also be catering.

Many other supplies however do cause problems when trying to define the “premises”.

### “Food plus service”

Catering is normally understood to include a supply of “food with service”. Any services rendered in addition to the basic food may lead HMRC to argue that the supply is standard-rated.

### “Hot takeaways”

The law states that catering also includes hot food to be eaten off the premises, where the food “has been heated for the purposes of enabling it to be consumed at a temperature above the ambient air temperature”, and it is above that temperature when it is supplied (see Note 3 of Group 1).

Useful guidance is given in **Business Brief 09/05**.

In conclusion, food will generally be zero-rated unless the food itself is excepted from zero-rating or it is supplied in the course of catering.

## 5.3 Group 3 - Books

Under this grouping zero-rating covers books, brochures, pamphlets, leaflets, newspapers, journals and periodicals, children’s picture books and painting books, any printed music matter and maps.

Whilst zero-rating covers the hard copies of the above, any electronic transmission of such books would not fall within the zero-rating provisions.

Talking books for the blind and handicapped and wireless sets for the blind will also be zero-rated.

## 5.4 Group 5 - Construction of Buildings

The zero-rating of property is a major area to look at and there is a separate chapter on this particular grouping later in the text. For now, we will just introduce the zero-rating provision.

When considering the construction of a building and the zero-rating of the onward supply you need two things;

- 1) the right type of supply; and
- 2) the right type of building.

You must have both. If both are present then the supply will be zero-rated.

### Type of supply

It must be the first grant of a “major interest” in that building. A **major interest** for these purposes will be a **freehold or a lease exceeding 21 years**.

[VATA 1994, s.96\(1\)](#)

### Type of building

There are only three types of buildings which fall within the zero-rating provisions;

- a dwelling;
- a "relevant residential building"; and,
- a "relevant charitable building".

**Relevant residential buildings** include drug rehabilitation centres, school dormitories, monasteries, nunneries - there is a defined list of relevant residential buildings in Note 4 of Group 5.

A "relevant charitable building" is a building used by a charity for a charitable purpose.

### **Illustration 1**

A builder builds a house and sells the freehold of the house.

Here we have the right type of supply (the freehold), and the right type of building (a dwelling). The builder will therefore charge VAT at the zero rate on the sale.

Note also that this grouping also includes the supply of services and related materials in the construction of dwellings - more on this in a later chapter.

## **5.5 Group 15 - Charities**

Zero-rated under this group are:

- Goods donated to a charity for sale by the charity.
- Sale by a charity of goods which have been donated to the charity. This includes supplies into the charity and then supplies from the charity.
- Any advertising supplied to a charity.
- Repair and maintenance of relevant goods owned by an eligible body (Note 4)

## **5.6 Group 16 - Clothing and Footwear**

Articles designed as clothing or footwear for children and not suitable for older persons, will attract zero-rating. Articles of clothing will include hats, and other forms of headgear.

Protective boots and helmets for industrial use unless the supply is made to an employer for his employees use can be zero-rated. These boots and helmets must be BSI standard.

Protective helmets for motor cyclists and pedal cyclists again to BSI standard can be zero-rated.

### **5.7 A word of warning**

When considering the items within these *Groups*, it is important that you fully read all the notes attached to the *Groups* (including the small print at the end of each *Group*) within the legislation or the VAT Notice.

**Example 1**

**Using the legislation, or the VAT Notice, decide which of the following are zero-rated.**

- A child's painting book
- Sandwiches sold and consumed in a café
- Babies' nappies
- A packet of herbal tea sold by a grocer
- Chocolate biscuits sold by a grocer
- Coach journey from London to Edinburgh
- Child's sheepskin gloves

**Answer 1**

- A child's painting book will be zero-rated by means of Schedule 8 Group 3 Item 3.
- Sandwiches sold in the café will be standard-rated; they do not fall within the zero-rating provision of Schedule 8 Group 1 because they are supplied in the course of catering.
- Babies' nappies will be zero-rated under Schedule 8 Group 16 Item 1.
- The packet of herbal tea sold by a grocer will be zero-rated by means of Schedule 8 Group 1. Tea is food fit for human consumption; but it could be within the excepted items in Item 4 under other beverages. However, the items overriding the exceptions, in this case Item 4, specifically state that herbal tea overrides any exceptions to this Schedule, therefore the herbal tea sold by a grocer is zero-rated. Note 6 also refers. This is a good example of why it is so important to read all of the notes in each Group.
- Chocolate biscuits sold by a grocer will not be zero-rated; they are deemed to be a luxury good i.e. not an essential good and are excluded from zero-rating by way of Schedule 8 Group 1 excepted Item 2.
- A coach journey from London to Edinburgh will be zero-rated by means of the transport zero-rated group at Schedule 8 Group 8.
- A child's sheepskin gloves will be zero-rated by means of Schedule 8 Group 16 Item 1. Note that articles designed as clothing or footwear for young children will be zero-rated and although there is an exception for articles are made of fur skin, this would not apply in this instance, as sheepskin is not deemed to be fur skin under Note 3 of Group 16.