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1. Introduction

1.1 Scope of this guidance

Our books of guidance are the main reference material for people in the Department. All HM Revenue and Customs (HMRC) formal procedures and work systems are outlined in these books which give managers and staff the Department's rules and guidelines and general advice on interpreting them.

The guidance is aimed at HMRC staff and should not be relied upon by taxpayers purchasing goods and services or businesses in calculating their taxes and / or duties.

This chapter explains:

- the liability of goods and services supplied to disabled people or those who are chronically sick;
- the liability of goods and services supplied to eligible charities serving the needs of disabled people; and
- which supplies are eligible for zero-rating under the VAT Act 1994, Schedule 8, Group 12.

Advice on goods supplied under items 1 and 1A of Group 12 “dispensing drugs” is dealt with in V1-7 Chapter 22: *Health*.

Other provisions which zero-rate purchases of goods or services by eligible charities serving disabled people are contained in:

- Schedule 8, Group 4, “Talking Books For The Blind”- see V1-9 *Charities*;
- Schedule 8, Group 15, “Charities”, particularly items 4, 5 and 9 – see V1-9 *Charities*; and
- Schedule 9, Group 7, “Health and Welfare”, particularly items 4 and 9 – see V1-7 Chapter 22: *Health*

and add to the wide range of VAT provisions which help disabled people.

1.2 Release of information: Freedom of Information Act 2000 (FoIA)

No exemptions under the FoIA apply and all information in this guidance may be released on request.

1.3 Background

The guidance is in Sections to help you to decide if the basic conditions for zero-rating under Group 12 are met and whether supplies of goods or services qualify for zero-rating under specific items.

Issues concerning disabled people are highly sensitive so the way in which you approach the task of making your decision and the manner in which you communicate your decision are very important - see Sections 2 and 50.

We have included a diagram and table to help you reach your decision – see Sections 48 and 49.

1.4 UK law

The law on the specific VAT reliefs available to disabled people is contained in the VAT Act 1994, Schedule 8, Group 12, extracts from which are reproduced in the relevant Sections of this guidance as appropriate. Unlike most VAT reliefs, a supply of goods or services must meet **all** the following criteria before it can be zero-rated under Group 12:

- it has to fall within one of the qualifying descriptions of goods or services listed in Group 12;
- it must be supplied to a “handicapped” person or to an eligible charity serving the needs of “handicapped” persons; and
- the goods must be for the personal or domestic use of the disabled person.

1.5 Political considerations

The availability of zero-rating for goods and services supplied to disabled people is a sensitive issue. Refusal of relief can often result in an appeal to the independent VAT and Duties Tribunal, or - more likely - a letter to a Member of Parliament, Minister or Chairman of HMRC. It may even result in the tabling of questions in the Houses of Parliament.

It is important to apply the law and also to adopt a common-sense approach to a particular problem. Where this common-sense approach has been taken centrally it is explained in the relevant Sections of the guidance such as Section 11 dealing with building alterations in the private residences of disabled people.

1.6 Other legislation

Other legislation, such as the Disability Discrimination Act (DDA)1995, does not extend the scope of the VAT reliefs available under Schedule 8, Group 12. The VAT system does not fully support the adaptations made by Charities to comply with the DDA because we are bound by the EU legislation. Our agreement with other Member States allow us to keep our existing zero-rates but cannot extend the scope of existing reliefs or introduce new ones.

1.7 Roles and responsibilities of the Charities Team and who to contact

We assist officers in providing consistent rulings to charities and disabled people wherever they are situated. The team deals with a number of issues relating to charities and disabled people and are there to assist staff interpret guidance and help fill the gaps.

Charities Help-line

If you have a query on VAT reliefs for the disabled, please contact in the first instance, the Charities VAT team in Bootle who provide a staff Help-line on 0151 472 6037 or 6072. You can write to the team at HMRC Charities, VAT Help-line, St John's House, Merton Road, Bootle, Merseyside, L69 9BB.

Charities Policy Team

We have responsibility for advising departmental staff about the VAT liability of goods and services for disabled people in areas where policy needs to be determined or has not clearly been determined. We are also responsible for writing and maintaining notices and guidance, as well as defending appeals that challenge our policy or legislation.

For more information on the Policy Team please look on the Charity, Assets & Residence pages on HMRC Intranet site.

2. How to deal with queries

2.1 Background

It has become common for retailers and, often, customers, to ask Revenue & Customs if goods which they are supplying or buying qualify for zero-rating under Group 12. Many of these cases are referred to Policy team without sufficient information for us to express a view. In many cases no evidence exists that the manufacturer makes any such claim for the goods. Sometimes, identical or similar goods have been the subject of different rulings by other offices. In other cases, traders have been known to shop around until they obtain a favourable ruling.

This Section sets out procedures which we have developed to ensure that a uniform approach is achieved. The flowchart in Section 48 illustrates these procedures in diagrammatic form.

2.2 The special nature of item 2 (g)

All the other reliefs for disabled people and for eligible charities contained in Groups 12 and 15 of the zero-rate schedule are fairly specific as to the goods or services covered. Item 2(g) of Group 12 is the exception in being a general heading for certain goods. Many people with disabilities, eligible charities and suppliers find that the long list of specific reliefs do not cover the supply in question. That tends to leave item 2(g) as the only heading which might apply. It is the most general in nature and has proved to be the most contentious, causing the most liability problems.

Item 2(g) of Group 12 states

(g) equipment and appliances not included in paragraph (a) to (f) above designed solely for use by a handicapped person;

2.3 Approach to deciding liability

Disabled people should not have to bear VAT on the additional cost of:

- goods specially designed or adapted to suit their condition; or
- services specifically intended to help them cope with their disability.

Certain goods and services used by disabled people are zero-rated and there has never been relief from VAT for everything that disabled people might buy.

Applications for VAT relief are often received from deserving cases and warrant sympathetic treatment. However, the zero rates must be strictly interpreted, by reference to the letter of the law. This is illustrated by the comment made by the Tribunal Chairman in the **Arthritis Care (13974)** case.

In dismissing the appeal, the Tribunal Chairman stated:

“it gives me no pleasure to arrive at this conclusion. It could be argued (and the Appellant would no doubt argue) that expenditure of this nature ought, morally speaking, to be zero-rated. However, I am not here to speak morally - I must interpret the law as I find it and, however hard I try, I cannot bring this expenditure within the words of the legislation, any amendment of which is of course a matter for Parliament and not for these Tribunals. I must dismiss the appeal.”

This Section therefore explains the approach to take when deciding eligibility for zero-rating under Group 12. You need first to consider whether these tests are met, before going on to consider whether zero-rating is available under the particular conditions of any one item.

2.4 Dealing with queries

It is important to ensure that:

- goods of a particular type produced by one manufacturer are given the same VAT liability regardless of where and by whom they are sold; and
- similar goods produced by different manufacturers are given the same VAT liability.

Failure to achieve this uniform approach:

- lays the Department open to criticism; and
- could place some retailers at a competitive disadvantage in relation to rivals who sell the same or similar products.

2.5 Manufacturers

We have discussed these problems with representatives of trade bodies and disability groups. It has been agreed that, except in the minority of cases set out in paragraph 2.7, VAT officers will give liability rulings on Schedule 8, Group 12 goods only to the manufacturer or importer of the goods concerned. This is the correct way to proceed in VAT law, since in many items of Group 12, VAT liability depends upon the purpose for which the goods were designed. Only the manufacturer or designer can answer that question.

2.5.1 Responsibility for giving ruling

VAT is a self-assessment tax, therefore, manufacturers or importers of a product are responsible for confirming the VAT liability of their products.

The manufacturer or importer should advise distributors and retailers of the product's VAT status. This means that all the retailers should sell the product with the same VAT liability. This may not prevent disputes as to the liability, but it should ensure that in most cases there is only one ruling for each product.

2.5.2 Giving a liability ruling

We want to encourage the manufacturer to copy the ruling to distributors of the product. You should therefore try to make your letter useful for this purpose by:

- making the letter self contained. Do not say, for example, "in respect of the five models listed in your letter of the 10 August, I can now confirm that.....". If you have to write about other matters you should, where possible, put these in a separate letter;
- clearly identifying the products/models to which the ruling applies. This is particularly important where a number of similar products or models are produced. Both you and the manufacturer may be clear as to which products you are talking about, but it may not be as clear to others who may rely on your letter; and
- asking the manufacturer to ensure that the ruling is brought to the attention of all distributors and retailers of the product. You could suggest that the manufacturer send them a copy of the ruling.

There is no objection, however, to the manufacturer indicating Revenue and Customs rulings on VAT liability in their product catalogues etc if this is more convenient. They should indicate, where appropriate, that the VAT liability has been agreed with HMRC. This will reassure retailers that they are not relying simply on the manufacturer's opinion.

2.5.3 Setting the conditions for your ruling

When giving a zero-rated ruling, do not just say, for example:

".....[product] is therefore eligible for zero-rating under item 2(g) of Group 12".

Always go on to give the other conditions for relief, for example:

"..... when supplied to a disabled person for domestic or personal use, or to an eligible charity for making available to a disabled person for such use, or to certain eligible bodies listed in Note (4) to Group 15 Schedule 8 of the VAT Act. Full details of these reliefs can be found in VAT Notices 701/1 *Charities*, 701/6 *Charity funded equipment for medical, veterinary etc uses* and VAT Notice 701/7 *VAT reliefs for disabled people with disabilities*".

The manufacturer may copy your letter to distributors and retailers, who have little knowledge of the reliefs and may not hold the relevant notices. It is important that they do not interpret your letter, read in isolation, as indicating that all sales can be zero-rated. Even if goods are designed solely for use by a disabled person many supplies may:

- be to commercial nursing homes –see paragraph 4.4.1;
- be to employers for the use of their employees; or
- not qualify for relief for other reasons.

Retailers often get the mistaken impression that certain goods are “zero-rated goods” and are unaware of the other conditions for relief.

2.6 Retailers

The initial line of enquiry for retailers should be to their supplier or the manufacturer and not to their local VAT office.

The manufacturer’s supplies to distributors/retailers are standard-rated.

Only the final supply to a disabled person or an eligible charity can be zero-rated.

This means that whilst it is usually in the interests of the manufacturer to ensure that zero-rating is obtained for retail sales, some manufacturers may be reluctant to pursue a claim for relief under Group 12.

You should tell the person seeking the ruling that it is very difficult to establish entitlement to relief under Group 12 without the support of the person who designed or manufactured the goods.

If the manufacturer is not prepared to make a claim that the goods are designed solely for use by a disabled person, that will normally be the end of the matter.

Retailers or purchasers, may, if they consider that the goods might qualify, ask for a ruling to be issued to them if the manufacturer indicates that the goods should, or might qualify for relief, but is nevertheless unwilling to take up the matter of VAT liability with his VAT office.

As VAT is a self-assessed tax, there is nothing to prevent suppliers zero-rating supplies on the basis of their own judgement. But we may dispute the liability when it comes to our attention, and so if there were any doubt, a retailer would be wise to request the manufacturer to seek a ruling. The manufacturer should make a copy of the ruling available to distributors and retailers of the product.

Alternatively, a retailer may rely on a written statement from the manufacturer that HMRC have accepted their claim, for instance under item 2(g) that the goods are designed solely for use by a disabled person. In such cases we would not, if the statement turns out to be incorrect, seek to recover tax from a retailer who, acting in good faith, zero-rated the final supply to a disabled person, provided that any such statement clearly and accurately specified the products/ models to which it related.

2.7 Purchasers

It is our policy to be as helpful as possible, especially to private individuals, and so in exceptional cases, you may give a liability ruling to the retailer or purchaser.

For example, if you are satisfied that the person seeking the ruling has tried unsuccessfully to persuade the manufacturer to take up the question of VAT liability, then you can follow the procedure for 'third party requests' set out in paragraph 2.8.

In many cases our reasons for refusing relief are misunderstood. Purchasers often think that we are disputing the fact that they are disabled, or questioning whether they have a genuine need for the goods or services in question. You therefore need to exercise great care when giving liability rulings in this area. Where appropriate, make clear in your rulings that you are not questioning the purchaser's disability or need; but that in spite of these factors there is, unfortunately, no VAT relief available for the goods or services in question.

An example of a specimen letter is included at Section 50.

2.8 Third party requests

If the third party request for a liability ruling comes from a disabled person you must be prepared to help.

In these exceptional cases, the person requesting the ruling should be asked to produce whatever details of the product (brochures, literature etc) he may have, plus any other available evidence of the manufacturer's design intention and any correspondence with the manufacturer or supplier. The officer dealing with the request should then check electronic folder (EF) as to whether;

- the manufacturer has been given a ruling on the product; or
- another officer is currently dealing with the manufacturer (in which case the issue will be easy to resolve).

However, if there is no previous ruling on the product and no one is registered as having an interest in the manufacturer, you should confirm the liability from departmental resources, such as relevant notices or guidance. Where notices or guidance do not provide the answers, you should refer to the Charities help-line.

2.9 Assurance visits

In the course of an assurance visit you may come across supplies of goods or services whose VAT liability under Group 12 is unclear. If the supplier is not the manufacturer you should ask if the manufacturer has indicated whether the goods meet the relevant tests set out in Group 12 such as whether they are "designed solely for use by a disabled person" – see paragraph 3.1.

If there is no previous ruling on the liability of a particular product, you should follow the same process in paragraph 2.8 above.

When you confirm the liability, you should:

- issue the liability ruling to your trader;

- deal with any assessments if appropriate; and
- deal with any subsequent appeal by your trader.

2.10 Multiple manufacturers

There will, of course, be instances where similar or identical goods are imported or distributed by more than one person. This may mean that in some instances different offices may need to give rulings on the goods. Where this occurs the offices concerned should attempt as far as possible to identify where other importers are situated, either by asking the importer, or by asking the importer to obtain details from the overseas supplier. All offices involved should then liaise and decide who should take the lead in giving a liability ruling and in ensuring that the other VAT offices are informed of that decision. Difficult cases can be referred to the HMRC Charities help-line.

2.11 Conflicting rulings

A supplier may claim that an identical, similar or competing product has been given a more favourable ruling. Such cases should be investigated by:

- checking the manufacturer's folder on EF to obtain further information about the product; or
- where there is no ruling registered on EF for the manufacturer, you may send an urgent reference check to the manufacturer's folder on EF, requesting verification of the VAT liability of the product when supplied to a disabled person or eligible charity.

This may result in one ruling being changed, or confirmation that the products attract different liabilities.

2.12 Referring cases to the HMRC Charities Policy Team

If, having read this guidance and followed its procedures, you are unable to reach a decision, you can contact the HMRC Charities Policy Team.

We would expect to see in all cases some indication that the manufacturer is making a claim that the goods are designed solely for use by a disabled person.

You should follow the guidance in *Policy Group Casework Monitoring System Guide* for referring a case to us.

2.13 Requests for HMRC to “approve” the design of products

Manufacturers and suppliers have been known to submit products with a request that we tell them if their products have been designed solely for use by a disabled person.

It is not for us to tell a manufacturer what the design purpose of his product is. The manufacturer must make a claim that they have designed the goods solely for use by a disabled person. It is up to the manufacturer to produce evidence to substantiate the claim.

2.14 Complaints and queries

Non-charitable nursing homes may argue that it is unfair that they have to bear VAT on certain items such as incontinence products supplied to residents because they will have to increase their charges to their residents.

Elderly people or their relatives may also complain that fees to nursing home residents will be increased to cover the cost of the VAT on items such as incontinence products supplied to the disabled person.

Nursing homes make exempt supplies of care. This means that the VAT related to those supplies cannot be recovered. This is the natural consequence of the tax and affects all those who make exempt supplies – see Notice 706 *Partial Exemption*.

2.15 Appeals against liability decisions

A liability ruling which says, in general terms, that particular goods or services would not be eligible for zero-rating, may not be an appealable decision. For there to be an appealable decision there has to be a ruling on the liability of one or more specific supplies **which have taken place**.

Do not invite anyone to appeal against a liability ruling which is not an appealable decision.

If anyone wishes to appeal against a liability ruling, he must either

- produce invoices or details of specific supplies which have taken place, so that an appealable decision as to the amount of tax chargeable on those supplies can be issued; or
- go ahead and zero-rate the supplies to disabled customers, which will cause you to issue an assessment which will then form the basis of the appeal.

2.16 Appeals by customers

The following have the right of appeal to the VAT Tribunal

- manufacturer,
- other suppliers of the goods,
- providers of services and
- the customer.

Very often it is the customer who pursues such appeals, with varying degrees of support from the supplier or manufacturer. In many cases, the customer's real complaint is that the law should provide more VAT relief for purchases by people with disabilities. People are often unclear in their own minds whether they are claiming that

- the existing reliefs do apply, or
- there should be more relief.

Clear explanation of the reliefs can avoid this confusion.

A disabled person should not be discouraged in any way from exercising their right of appeal if they wish to do so. You can, in appropriate cases, explain that the Tribunal's function is to rule on the law as it stands. The Tribunal cannot create additional reliefs for which Parliament has not legislated.

2.17 Appeals to the VAT Tribunal

If a claim is made that a VAT Tribunal has decided that a particular item is zero-rated you should remind the claimant that the decisions of the Tribunal is based on the circumstances of a particular case. Although the Tribunal's findings can be persuasive in handling similar cases they are not binding as are judgements of the higher courts. If someone disagrees with a decision to refuse zero-rating you must be prepared to defend the issue at the Tribunal.

It is very important that you inform HMRC Charities Policy Team as early as possible about an appeal to the VAT Tribunal.

3. How to decide “if equipment is designed solely”

3.1 How to decide if goods are “designed solely”

Having gathered together all the evidence, you are now in a position to make your decision:

- If the goods are of a type which has already been considered by the VAT Tribunal, then you may be able to follow that Tribunal’s line of thinking to reach a decision.
- If the Tribunals have considered item 2 (g) but have given us no hard and fast rules then each case has turned on its own facts.

Tribunal and Court cases give a number of indicative criteria, which you can use to make your decision. These are:

- your own or colleagues’ knowledge of the trader’s activities
- to whom in practice is the product sold?
- any representations received from other traders selling the same or similar goods; and
- are similar products already on the market? If so, what liability is applied to them?

You should also consider the following points:

- Does the appearance and method of operation of the equipment or appliance suggest that it was designed solely for use by a disabled person?
- Is it something of a single-purpose design, that is, manufactured to a design for the sole use of people with disabilities?
- Has it been “planned and fashioned” in such a way as to render it for use solely by a disabled person?
- Would it be used solely by disabled persons?
- Would it be of similar value to people other than those with disabilities?

If it was designed solely for use by disabled people, but has subsequently been developed or adapted for use by a wider range of people, then it would continue to qualify for zero-rating.

There are many products which are useful or even essential to people with disabilities. But they are not necessarily “designed solely for use by a disabled person”. Item 2(g) is drawn in very narrow terms by use of the word “solely”. It is not intended to relieve products which people with disabilities might find useful in coping with their disability, but were designed for wider applications.

And finally, consider examining the goods, if necessary at the trader's premises. If appropriate the trader might wish to demonstrate the goods in use. We have been criticised in the past for refusing relief without first having seen the goods in question.

3.2 Intention of the manufacturer or designer

Design refers to:

- what the manufacturer originally set out to achieve.

It does not mean

- “destined for” or
- “intended for”

people with disabilities.

You will be able to decide if the manufacturer set out to design something solely for disabled people by looking at documents which originated at a very early stage of the design process, such as

- design specifications,
- patent applications, and
- documents commissioning clinical trials or reporting on their outcome.

3.3 Can an existing product be adapted or developed for use by a disabled person?

A manufacturer might adapt, further develop or add features to a product to facilitate its use by disabled people, but this would not necessarily ensure its zero-rating if it is still of use to a wider group of people.

3.4 Medical condition of end user

A product may be designed

- to help with a range of medical conditions or
- for general hospital use or
- for medical use.

Not all of these conditions may render the sufferer chronically sick or disabled. This means that the product would not qualify as designed solely for use by a disabled person.

The same will apply where a product is designed for all sufferers of particular chronic conditions, such as back complaints, but a significant number of people with these conditions may not be rendered sick or disabled by their condition.

Only if the manufacturer can establish that only those suffering from the condition to such an extent that the person is disabled and would need the product, does it qualify for zero-rating.

These points are demonstrated in the Tribunal decisions for **Princess Louise Scottish Hospital (1412)** – see paragraph 30.1.1 and **Aquakraft Ltd (2215)** see paragraph 35.1.1 Zero-rating was refused in both cases because the goods were

- clearly general purpose and
- of use to those suffering from short term sickness and injury.

The goods were for the use of hospital patients generally and the condition which the designer had in mind, although chronic, would not in all cases be sufficiently serious to render a person chronically sick or disabled. Zero-rating was therefore refused, because the goods could not be described as being designed solely for use by a chronically sick or disabled person.

3.5 What information should the manufacturer provide?

The manufacturer should send his local VAT office details of the product including:

- marketing literature such as brochures and catalogues;
- any design specifications showing details of the disability or condition which the designer set out to address;
- any patent applications. Where the manufacturer's literature indicates that the product is the subject of patents you should consider asking to see the relevant applications - these can give valuable details about the product's design purpose;
- details of any clinical trials or tests which have been carried out such as
 - (a) On whom were tests carried out?
 - (b) What medical conditions or disabilities were addressed?

The manufacturer's marketing literature frequently refers to such tests.

- endorsements of the product given by disability groups, medical organisations or doctors. Ask for a full copy of what these people had to say;
- company reports, business forecasts etc detailing sales or projected sales of the product.
- extent of the market for the product?

4. Definitions and use of terms

4.1 Meaning and use of the term “handicapped”

4.1.1 Meaning

“Handicapped” is defined in Legal Note 3 to Group 12 of Schedule 8 of the VAT Act 1994 as follows:

“Handicapped” means chronically sick or disabled.
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It is a fairly wide definition, covering many of those who are sick as well as those who are disabled. The terms “chronically sick” and “disabled” are not further defined in law.

4.1.2 Use in VAT law

A concept common to the majority of Group 12 is that the goods or services must be supplied

- to “a handicapped person” or
- to an eligible charity which serves the needs of disabled people

for zero-rating to apply.

However, in items 2 (g), (h) and (i), a condition of zero-rating is that the goods must be:

- “designed solely for use by a handicapped person”; or
- “designed or substantially and permanently adapted for use by handicapped persons”.

In this context, the term “handicapped” becomes important as a means of judging whether the goods themselves qualify for zero-rating, and further guidance as to how to make this judgement can be found at paragraphs 38.3 – 38.5.

4.1.3 Is a person “handicapped”?

Zero-rating under Group 12 depends partly on the status of the recipient and works on the basis of a simple system of a customer declaration at point of sale – see Section 44.

4.1.4 Use in correspondence

The VAT Act uses the expression ‘handicapped’ for the purposes of VAT relief. This expression is no longer in everyday use and can sometimes cause offence. For this reason, we use expressions such as:

- disabled person; or

- person with a disability,
- except when directly referring to or quoting the law.

4.1.5 Tribunal cases

Appeal	Decision
Aquakraft Ltd (2214)	The Tribunal was not prepared to accept that a person was chronically sick or disabled simply by having a slipped disc.
Posturite (UK) Ltd (7848)	The Tribunal accepted that otherwise able bodied persons suffering from neck or back pain did not qualify as chronically sick or disabled.
G D Searle & Co Ltd (13439)	The Tribunal found that whilst asthma was undoubtedly a serious health problem, that did not mean that all 3 million sufferers were “chronically sick or disabled”. On that basis, an aerosol spray for killing off dust mites was ruled ineligible for zero-rating.

4.2 Meaning of “chronically sick”

The meaning of the words “chronically sick”, as used in Note (3) to Group 12 (see paragraph 4.1.1), is:

- long term, as opposed to acute or short term; and excludes
- injuries of a temporary nature.

Most people will be able to point to some chronic or long term ailment from which they suffer but that does not necessarily mean that they are sick or disabled. For example, some people who suffer from long term back problems may be chronically sick or disabled but others are not; depending on the severity of the problem. Examples of conditions that we always accept to be chronic sickness are diabetes and terminal stage illness such as cancer.

4.2.1 Neen Design Ltd (11782)

This appeal was about transcutaneous electrical nerve stimulator (TENS) machines. The Tribunal accepted medical evidence that a chronic pain condition was one that lasted for more than three months. The chairman also remarked that not all chronic pain sufferers would necessarily qualify as chronically sick or disabled. The chairman made the following statement:

“for example where the pain is chronic but not an inconvenience”.

4.2.2 Tempur Pedic (UK) Ltd (13744)

This appeal was about a mattress designed to alleviate back pain when sleeping. The chairman made the following statement:

“The Shorter Oxford English dictionary defines “chronic” as “of or relating to time, chronological” or “lasting a long time, lingering, inveterate” or “constant, also bad”. The opposite of chronic is acute which is defined as “coming sharply to a crisis, not chronic”. We know that “chronic” is also used colloquially to mean very bad, intense or severe but we adopt the principle that the meaning of the word in a statute is its ordinary, and not its colloquial, meaning. The same Dictionary defines “sick” as suffering from illness, “suffering from illness of any kind; ill, unwell”; or, of parts of the body, “not in a sound or healthy state”; or, “those who are a person suffering from illness”. “Illness” is defined as “bad or unhealthy condition of the body; the condition of being ill; disease, ailment, sickness”. In our view the conditions for which the mattress was designed, namely the relief of long term pain and pressure sores, comes within the meaning of “chronically sick” because the conditions last a long time, and are not soon over, and those suffering are ill, or unhealthy, or suffering from an ailment.”

4.3 Meaning of “disabled”

4.3.1 What is “disabled”?

The word “disabled” implies a condition of a long-term nature with a substantial adverse effect on the ability of the individual to carry out day-to-day activities and includes:

- mental disability;
- blind or visually impaired; or
- acute hearing loss,

although spectacles and hearing aids are specifically excluded from relief – see Sections 26 and 18.

A temporary injury such as a broken limb is not a form of disability.

4.3.2 Is an elderly or frail person “disabled”?

Those who are frail simply because of old age are not considered to be disabled - as demonstrated by the High Court case **Help the Aged [1997] STC 406** when the judge referred to the distinction between old age and handicap in the following terms:

“Just because a person is elderly does not mean that he or she is handicapped. But where the physical condition of the person in question is so impaired on account of old age or as the result of a chronic condition that he or she cannot get about without a wheelchair or a walking aid, he or she can in the ordinary and accepted sense of the term be said to be disabled”

4.3.3 Dyslexia and asthma

The severity of many conditions varies and some sufferers will not be disabled by the conditions whilst others are. Such conditions include dyslexia and asthma.

Where a person's dyslexia or asthma has a substantial long term adverse effect on his/her ability to carry out normal day to day activities then he/she should be treated as being disabled for VAT purposes.

This means that not everyone with dyslexia or asthma is disabled.

You should not challenge an individual's declaration that he is disabled by reason of dyslexia or asthma. Remember you will still need to apply the other tests referred to in Section 2 before deciding whether the goods and services supplied are eligible for relief.

4.4 Recipient of the supply

It is important to decide who is receiving a supply of goods or services because VAT relief are for disabled people, and can be made directly to them or a charity that make the goods and services available to them. See paragraph 11.4 for guidance in the case of building alterations. The same principles can be used in other cases to help you to decide who is receiving a supply of goods or services.

4.4.1 A commercially-run organisation supplying care

Such an organisation will not be able to claim VAT relief on their purchases, even though acquired for the use of disabled persons. This was demonstrated in the Tribunal case **Kathleen Ann Conroy (1916)**. The Appellant ran a nursing home, unregistered for VAT, and disputed that a lift supplied to the home was liable to VAT at the standard rate. The nursing home supplied services to 28 fee-paying residents, all of whom were chronically sick or disabled. As part of their case the Commissioners contended that the supply of the lift was made to Miss Conroy who was not herself disabled and who did not carry on the nursing home as an eligible charity, but as a commercial enterprise. The Chairman agreed with the Commissioners and concluded:

"it is clear that the supply of the lift in the present case was made to Miss Conroy, and that she is neither handicapped person nor a charity. For this reason also I am satisfied that the supply in this case fell outside item 2 of Group 14 aforesaid." [now Group 12, Schedule 8, VATA 1994].

See paragraph 2.14 for guidance on handling queries.

4.5 Group 15 relief and "use" criteria

Legal Note

3. "Relevant goods" means

(d) goods of a kind described in item 2 of Group 12 of this Schedule;

Note (3)(d) brings item 2 goods into the relief under Group 15, but without the condition attached to item 2 concerning domestic or personal use. When you are considering a supply to an eligible charity it is important, therefore, that you are clear whether relief is being claimed under Group 12 or Group 15, as different conditions will apply. A supply to an eligible charity may, of course, fall under both reliefs. See Notice 701/1 *Charities* for further information. Not all charities are eligible for relief under Group 15 – see V1-9 *Charities* for further information.

5. Goods supplied for the use of disabled people (item 2)

5.1 Conditions to be met

Item 2 lists a wide range of goods which are of use to a disabled person:

2. The supply to a handicapped person for domestic or his personal use, or to a charity for making available to handicapped persons by sale or otherwise, for domestic or their personal use, of –

- (a) medical or surgical appliances designed solely for the relief of a severe abnormality or severe injury;
- (b) electrically or mechanically adjustable beds designed for invalids;
- (c) commode chairs, commode stools, devices incorporating a bidet jet and warm air drier and frames or other devices for sitting over or rising from a sanitary appliance;
- (d) chair lifts or stair lifts designed for use in connection with invalid wheelchairs;
- (e) hoists and lifters designed for use by invalids;
- (f) motor vehicles designed or substantially and permanently adapted for the carriage of a person in a wheelchair or on a stretcher and of no more than 11 other persons;
- (g) equipment and appliances not included in paragraph (2) to (f) above designed solely for use by a handicapped person;
- (h) parts and accessories designed solely for use in or with goods described in paragraph (a) to (g) above;
- (i) boats designed or substantially and permanently adapted for use by handicapped persons.

Legal Notes

(3) **“Handicapped”** means chronically sick or disabled.

(4) Item 2 shall not include hearing aids (except hearing aids designed for the auditory training of deaf children), dentures, spectacles and contact lenses but shall be deemed to include –

- (a) clothing, footwear and wigs;
- (b) invalid wheelchairs, and invalid carriages; and
- (c) renal haemodialysis units, oxygen concentrators, artificial respirators and other similar apparatus.

(5) The supplies described in item 1 and 2 include supplies of services of letting on hire of the goods respectively comprised in those items.

Some basic preconditions must be met before zero-rating can be applied. These are that:

- the recipient must be “handicapped” (i.e. “chronically sick or disabled”) – see paragraph 4.1.3, or
- in the case of an eligible charity, the goods must be made available to such persons - see paragraphs 4.2 to 4.5;
- the goods must be supplied to that person or charity – see paragraphs 4.2 to 4.5;
- the goods must be for the domestic or personal use of that disabled person, or in the case of an eligible charity, must be made available to disabled persons for their domestic or personal use – see paragraphs 4.2 to 4.5; and
- the supplier must be able to demonstrate that supplies have been made to eligible customers. This is usually evidenced by a customer making an eligibility declaration in the form set out in Notice 701/7 *VAT reliefs for disabled people* - see Section 44 for further information.

All the legal conditions must be fully met.

For zero-rating to apply, there must be a separate supply of goods. Such a supply of goods must also be independent of any supply of care provided by non-charitable hospitals, residential homes and similar establishments - see Sections 21 and 27.

5.2 Domestic or personal use

The terms “domestic” and “personal” are not further defined in law therefore everyday meanings apply.

5.2.1 Domestic use

“Domestic use” means use in the disabled person’s private residence. This includes circumstances where an eligible charity makes goods available for the use of one or more disabled residents in a residential home. This approach is supported in the case of the **Attorney General v Milliwatt Ltd [KBD 1948]{All England Law Reports page 332}** about electric heating pads and blankets. J Cassels stated

“Most of the authorities on the word “domestic” are to be found in cases concerning the domestic use of water, and they are not of much assistance. I think “domestic” in the present connection means the house or the home.”

5.2.2 Personal use

In the case of **Aquakraft Ltd (2215)** the Tribunal decided that personal use meant “private or exclusive” use.

The goods must be used specifically by an individual (or series of individuals), to use as they wish such as:

- shop mobility schemes which loan a wheelchair for the personal use of successive disabled persons. The equipment is returned after use and then issued to another user; or
- an induction loop system in an eligible charity building enabling a disabled person to switch their hearing aid to the 'T' position.

Zero-rating would apply in these circumstances, even if the charity did not know the identity of the user(s) at the time of purchase, because that charity was arranging for a succession of individual personal uses to take place.

Zero-rating does not apply when the equipment is to be made available for general use, for example, rather than being widely available for a whole group of people.

5.3 Exceptions to “domestic and personal use”

An important precondition for relief in item 2 of Group 12 is that the goods must be supplied (or made available by an eligible charity) for a disabled person's domestic or personal use.

5.3.1 Domestic or personal use

This term was considered in the Tribunal case **Portland College (9815)** where “domestic or personal use” means that

“the user must be a specific person or persons to have the use of what was supplied”. It did not extend to “all persons who care to use the equipment even if all such users are handicapped”.

5.3.2 General use

An item of equipment, such as a stair lift, installed or made available in a public building, such as a museum, for the use or convenience of all disabled persons who might be using the building, would not qualify for relief under Item 2 of Group 12, because the charity is making an asset available in a public, non-domestic building for the general use of those who might need it.

However, we may consider a stair lift provided in a non-domestic building by a charity to be for personal use if the lift is restricted and made available only to disabled people in the building. For example, allowing only a key holder to operate the lift may allow personal use by specific people.

5.3.3 Business use

The phrase “domestic or personal use” also precludes business use. This means that if, for example, a self-employed blind person purchases a Braille embosser for a computer which he uses in his business, then that purchase cannot be zero-rated.

5.4 How item 2(g) applies to products

The following table lists the products about which we are asked questions most frequently or Tribunals have given decisions and provided information about the way in which item 2(g) works in practice:

Goods	Guidance
Air conditioning units	Section 7
Air purification products	Section 9
Allergy products	Section 9
Artificial respirators	Section 7
Asthma products	Section 9
Audio described videos	Section 43
Auditory training devices	Section 18
Baths	Section 11 and 35
Batteries	Section 18 and 39
Bed bases	Section 6
Carpets	Section 12
Chairs including recliner chairs	Section 19
Clothing	Section 15 and 21
Cochlear implants	Section 18
Computer equipment	Section 16
Contact lenses	Section 26
Electrically operated doors	Section 11
Environmental control systems	Section 7
Footwear	Section 15
Golf buggies	Section 17 and 43
Hay fever products	Section 9
Hearing aids	Section 18
Hydrotherapy pools	Section 20
Incontinence products	Section 21
Induction loops	Section 18
Invalid carriages	Section 22
Kitchen units and appliances	Section 23
Low surface temperature radiators	Section 25

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Goods	Guidance
Low vision aids	Section 26
Mattresses	Section 6
Multi sensory environment	Section 34
Observation windows	Section 34
Overbed tables	Section 30
Oxygen concentrators	Section 7
Pain relief equipment	Section 31
Pipe covers	Section 25
Radiator covers	Section 25
Recliner chairs	Section 19
Renal haemodialysis unit	Section 32
Safety cabinets	Section 25
Shower units	Section 11
Soft games room	Section 34
Spa baths	Section 35
Spectacles	Section 26
TENS machines	Section 31
Tinnitus masker	Section 18
Transfer boards	Section 19
Vacuum cleaners	Section 9
Videos	Section 43
Vision aids	Section 26
Walk-in baths	Section 35
Walkways	Section 36
Wheelchairs	Section 22
Wigs	Section 15
Writing boards	Section 37

5.5 Are products suitable for a disabled person's needs eligible for VAT relief?

A person with a disability may select a particular model or product which best suits their needs. It may:

- be more robust;
- be made of particular materials; or

- have additional features,

which facilitates its use by a person with a disability. This may sometimes make the product more expensive than the standard model, but it does not of itself make the product zero-rated for VAT purposes.

6 Adjustable beds [Item 2(b)]

6.1 Conditions to be met under item 2 (b)

If the basic preconditions for zero-rating are met (see Section 5), then a supply can be zero-rated under item 2 (b) provided:

- it is a bed (which sounds self-evident but is not always so!);
- it is electrically or mechanically adjustable; and
- it is designed for invalids.

6.2 What is a “bed”?

The question of what comprises a bed was addressed in the Tribunal case **Back In Health Ltd (10003)**. The appellant appealed against a decision that certain of their products did not qualify for zero-rating under item 2. Two of the products were:

- The Kenko Patto Magnetic Mattress (KPMM) - a mattress giving a gentle massage of the muscles, enhancing blood circulation; and
- The Kenko Makura Magnetic Pillow (KMMP) prevents the weight of the head sinking into the pillow, regulating heat loss from the body, and thereby keeping the head cool and the feet warm.

Both products were targeted at people with medical problems, including disabled and chronically sick people, but were also available on the open market for anyone to purchase. The appellant contended that both the KPMM and KMMP came within item 2(b), claiming that although described as a mattress, the KPMM was in reality an electrically adjustable bed designed for invalids and that, in its ordinary sense “bed” can include “mattress”. In dismissing the appeal the Tribunal agreed with the Commissioners that for the purposes of the law a distinction had to be made between “bed” which is furniture and “mattress” which is a stuffed or padded item. Therefore neither the mattress nor the pillow came within item 2(b).

6.3 Is the bed “electrically or mechanically adjustable”?

The **Back in Health** Tribunal also considered whether the products could be described as “electrically or mechanically adjustable”. It found that the key factor was whether the bed was adjustable for height, drop and angle, so as to enable a person to slide from a wheelchair to a bed at a lower level.

6.4 Was the bed “designed for invalids”?

It is significant that the law here uses the words “designed for invalids”, not “for a disabled person”. “Invalid” is linked to a medical condition, temporarily or permanently, resulting in illness. The criteria for the eligible design are therefore different. These issues were explored in Tribunal case **Niagara Holdings Ltd (11400)**.

The appeal was against a decision of the Commissioners that the Adjustamatic bed produced by Niagara was not entitled to relief under item 2(b). Both sides accepted that the beds were supplied to disabled persons and were electrically or mechanically adjustable. The third condition - that the bed was “designed for invalids” - was the point at issue.

The Tribunal considered:

- “both the stated intention of the designer and the end product”;
- the level of medical and other specialist consultation in the design process;
- the bed’s unusually strong construction;
- the cycloidal massage vibrator units;
- the facility for a variable height mechanism; and
- the fixing holes necessary to enable the attachment of the optional parts such as cot sides, and leg lift.

The Tribunal concluded that:

“This was not a normal bed; it was not a bed designed for normal sleep and rest; all its features pointed objectively towards the fact that it was a bed designed for a special purpose. The appearance of the basic bed was such as to fit easily into a domestic environment but that is just what is envisaged by Item 2 of Group 14 (now Item 2(b) of Group 12 Schedule 8, VAT Act 1994). In our view we do not need to consider the use of the bed or the persons to whom the bed is sold. The legislation only requires that the bed is “designed for invalids” and not “designed solely for invalids” or “solely for the use of invalids”.

The above decision was endorsed by the Chairman in the Tribunal case of **Hulsta Furniture (UK) Limited (16289)**.

This is a competitive market place, divided between suppliers who are geared towards helping disabled people and those who are aiming at a wider market, such as those who suffer from back pain or circulation problems. The phrase “designed for invalids” is an important means of confining the zero rate to highly specialised beds and avoiding the zero rate spreading into the main stream market, with all the distortions in competition that would bring.

The Tribunal decision tells us that for a bed to meet this test it must clearly stand out as being something specialised for the use of invalids and akin to beds commonly used in hospital wards. In addition to the features listed above, one might also expect it to have facilities for “cot” sides and drips where necessary.

6.5 What features make a bed eligible for VAT relief?

The bed base should have features such as:

- adjustable head and back hinged panel;
- adjustable foot and knee hinged panel;
- slats/supports with individual suspension whose rigidity can be individually adjusted to suit the user’s needs;
- fixed height from floor to assist:
 - (a) raising from the bed to a standing position; or
 - (b) moving to a wheelchair; and
- capable of being slotted into a cot frame or fitted with cot sides.

Such features enable a person to change position in bed without assistance and aid the relief of bed sores.

You should allow VAT relief if a bed has most but not all of the above features.

6.6 Is an adjustable bed base supplied without a mattress eligible for VAT relief?

Yes. A bed base with the features described in paragraph 6.5 is eligible for zero-rating under item 2(g).

7 Air conditioning units

7.1 General purpose equipment

General purpose equipment such as air conditioners are not included within item 2(g) (see paragraph 5.1). We accept that air conditioning units alleviate the suffering caused by certain medical conditions and provide a constant atmospheric environment. However, the products:

- are designed for general purpose use;
- are not specifically for use by a disabled person; and
- do not fall within the words of item 2(g).

7.2 Air conditioning units

The Tribunal case of **E Simmons (6622)** concerned two air-conditioning units purchased by Miss Simmons, who suffered from multiple sclerosis. Humidity and heat caused Miss Simmons serious discomfort and interfered with her ability to live a normal life. The equipment therefore helped considerably in coping with multiple sclerosis.

One air-conditioning unit was installed in a room in Miss Simmons's home and a second was a portable device. The air-conditioning units were of a standard type and the manufacturers' brochures made no claim that the units were of particular use to any class of users. Miss Simmons argued, however, that the design of the air-conditioning units was exactly the same as it would have been if they had been designed solely for use by a disabled person and for that reason they should qualify for relief.

7.2.1 Item 2(g)

In dismissing the appeal, Mr Oliver QC ruled:

“The Tribunal finds as a fact that the air-conditioning units were designed for general purpose use. As a matter of law, the words of Item 2(g) impose, as a condition for zero-rating, that the sole purpose of the design of the equipment in question be for its use by a handicapped person. The fact that the design would be the same whether the equipment was to be used by a handicapped person or for the general purposes does not bring the equipment within the words of Item 2(g). The wording specifically limits the class of zero-rated equipment to single-purpose designed equipment, i.e. equipment manufactured to a design for the sole use of handicapped persons; and it does not admit the inclusion of general-purpose equipment such as these air-conditioners.”

7.2.2 Legal Note (4)

Considering the question of whether the air conditioners are similar apparatus to those in Note (4)(c) (see paragraph 5.1), Mr Oliver QC went on to say:

“The air conditioning unit-humidifying unit, however, is different in at least two material respects. First it has a general use (i.e. it is not designed for people in extreme states of illness or injury). Secondly, it does not require to be attached to the user’s body. Mrs Simmons made the point that she was, in a relevant sense, physically attached to the air conditioner because she could only make use of its therapeutic benefits if she was in the same room. That, in the Tribunal’s opinion, is not an attachment of the sort needed to make use of the equipment specifically listed in Note (4)(c) and so does not bring the present air conditioners into the same genus as the listed equipment.”

7.2.3 Adapted air conditioning unit

In a recent Tribunal case of **Mrs B Symons (19174)**, the Tribunal Chairman held that the air conditioning unit combined with air filters supplied to the appellant who suffers from dystonia qualifies as a zero-rated supply under item 2(g). The Commissioners ruled that the air conditioning system was not eligible for zero-rating on the ground that the appellant purchased a standard air conditioning unit and had it adapted to filter out pesticides, smoke and traffic fumes. Also, the air conditioner had originally been designed for use in hospitals, with adaptations for patients who may benefit from it and not just for chronically sick or disabled people. The Commissioners did however allow partial zero-rating in respect of the adaptation of the system to suit the appellant’s condition under Item 3.

In allowing the appeal, Mr Angus Nicol stated:

We consider that the proper and logical way to look at the system is to look at it as a whole, and not at particular components of it. A car which has been adapted is quite a useful analogy, though it is no more than an example. But if it is capable of being treated as designed solely for use by a handicapped person, then so is other equipment. What was supplied in the present case was more than just an air conditioning or filtering system; it was principally for filtering out of the air specific things which were harmful to the Appellant, before they entered her house, and necessarily created for her an environmental control system.

We do not accept the ruling because we believe the Tribunal applied the wrong test, relating to adapted motor vehicles under Item 2(f), which sets different tests for zero-rating than those in Item 2(g). However, we decided not to appeal any further due to personal circumstances of the appellant.

7.3 Environmental control systems

You may be referred to the case of **Boys and Girls Welfare Society (15274)** where the Tribunal decided that an environmental control system used to heat the pool and the unit around it was an integral part of the supply of the hydrotherapy pool. This decision was made on the facts of the case and does not mean that similar environmental control systems are in isolation designed solely for disabled people. You will still have to apply all the other tests described in Section 4 for establishing whether it is equipment or appliances designed solely for the use of a disabled person.

7.4 Oxygen concentrators, artificial respirators and similar apparatus

Oxygen concentrators, artificial respirators and similar apparatus are included within the zero rate under Note (4c) (see paragraph 5.1). This is because these types of equipment work automatically and are specifically designed for the sole purpose of providing artificial ventilation for a patient, who is physically attached to the machine.

8 Alarm call systems [Items 19 and 20]

8.1 Are alarm call systems eligible for zero-rating?

Zero-rating for the provision of alarm call systems is available under items 19 and 20 provided that the conditions set out in Section 4 are met.

19. The supply to a handicapped person for domestic or his personal use, or to a charity for making available to handicapped persons by sale or otherwise for domestic or their personal use, of an alarm system designed to be capable of operation by a handicapped person, and to enable him to alert directly a specified person or a control centre.

20. The supply of services necessarily performed by a control centre in receiving and responding to calls from an alarm system specified in item 19.

In addition, legal note (9) clarifies what is meant by the term “specified person or control centre”:

(9) In item 19 or 20, a specified person or control centre is a person or centre who or which-

- (a) is appointed to receive directly calls activated by an alarm system described in that item, and
- (c) retains information about the handicapped person to assist him in the event of illness, injury or similar emergency.

8.2 Emergency alarm call systems [Item 19]

The supply of an emergency alarm call system can be zero-rated provided that:

- the supply is either to a disabled person for domestic or personal use or to an eligible charity which intends to make the goods available to disabled persons by sale or otherwise for domestic or their personal use – see paragraph 5.2;
- the alarm system is designed to be capable of operation by a disabled person – see paragraph 3.1; and
- the system allows that person to alert directly a specified person or control centre – see paragraph 8.2.

The relief under this item is intended for alarm systems designed to be capable of operation by disabled people if they require immediate assistance in the case of illness, injury or similar emergency.

8.2.1 Are all emergency alarm systems eligible for VAT relief?

To qualify for zero-rating, the alarm system must:

- have some special operational feature, or functions specific to the needs of the disabled person such as a pendant worn around the neck, with a button that can be pressed as an emergency buzzer; and
- link the caller to either a control centre which holds information on the disabled person and can therefore offer help in the event of an emergency, or to other specified persons such as relatives, friends or neighbours.

The following systems are not eligible for zero-rating:

- telephone lines, even if installed purely to service a community alarm system, cannot be regarded for VAT purposes as an alarm system; and
- a system such as AA Callsafe which, whilst designed for car users in the event of a car accident or breakdown, does not retain any information about specific disabled people.

The zero rate relief under item 19 does not extend to specialist emergency services for the general public, even if they may benefit a disabled person.

8.2.2 Is an emergency alarm system used by an elderly person eligible for zero-rating?

Many elderly people will undoubtedly have need of these alarm systems, but the law does not allow the supply to them to be zero-rated unless they are also disabled.

8.3 Services performed by control centres operating alarm systems **[Item 20]**

A business which qualifies as a specified person or control centre as explained in paragraph 8.2 can zero-rate the supply of any services necessarily performed in receiving and responding to calls from the alarm system. The services do not necessarily have to be supplied directly to a disabled person, provided that the call originated from a disabled person.

9 Asthma, hay fever and allergy products

9.1 Vacuum cleaners and air purification products

All supplies of vacuum cleaners, air purification products and similar allergy relief products are liable to VAT at the standard rate, irrespective of to whom they are supplied.

Our policy of standard-rating these products is based on the Tribunal case of **G D Searle and Co Ltd (13439)**.

9.2 Aerosol spray

The Tribunal found that an aerosol spray which was designed to kill off dust mites did not qualify for zero-rating:

“We were told and we readily accept that asthma causes 100,000 hospital visits annually and resulted in a death every four hours in 1993. We were told that it affects 10-20 per cent of children and 5 per cent of adults, some 3 million people in all. While this demonstrates the seriousness of asthma as a health problem, it does not follow that all three million are to be considered as “chronically sick or disabled”....We concluded that even on the basis of Dr Maunder’s assertion that Actomite was designed for asthma sufferers and not for anyone else that it does not meet the statutory requirement that it be “designed solely for use by a handicapped person”.... The evidence of labelling indicates that Actomite is also designed for other allergic conditions such as ‘sneezing, runny nose and watery eyes’. We do not accept that persons prone to suffer these are by definition ‘chronically sick or disabled’.”

9.3 Medivac Healthcare Ltd

You may be referred to the decision of the Tribunal in the case of **Medivac Healthcare Limited (16829)** where a range of products was zero-rated. The decision was based on the facts and evidence presented at the hearing. The Tribunal endorsed the view that while some asthma sufferers are undoubtedly debilitated by their condition not all sufferers are chronically sick or disabled see paragraph 4.3.3.

10 Boats [Item 2(i)]

10.1 Conditions to be met under item 2 (i)

As with all other sub-items to item 2, the basic preconditions (as set out in Section 5) must be met before zero-rating can apply under item 2(h) (see paragraph 5.1). However, in addition, the boat must be “designed or substantially and permanently adapted for use by disabled persons” before the supply can be zero-rated.

10.2 How to decide whether the boat is “designed or substantially and permanently adapted for use by handicapped persons”

You must read sub-paragraphs 10.2.1 and 10.2.2.

10.2.1 What are the special features for disabled people?

To be considered eligible for full relief the boat must have special features for disabled people incorporated into it, so as to distinguish it from ordinary boats used by the able-bodied such as:

- special washroom/toilet facilities;
- push down spring return taps;
- kitchen adaptations;
- low windows, galley units and handrails;
- special beds for paraplegics;
- non-slip floors;
- clamps and supports;
- embarking and disembarking adaptations; or
- steering, controls etc adapted for disabled people.

This is not an exhaustive list.

10.2.2 What special features would a boat need to provide for disabled passengers in the context in which it is intended to operate?

A boat would not necessarily have to contain all of the features mentioned in paragraph 10.2.1 to qualify for zero-rating. For instance, a boat which just provided day trips would require only those which were needed in the context of its intended use. If those special features are present at the time the boat is initially supplied, then the whole boat is “designed solely” and so can be zero-rated. If however, the boat contained no such features at the time of sale, or its special features were insufficient in the context of its intended use, then the initial supply of the boat would be standard-rated. Zero-rating would however, apply to any subsequent qualifying adaptations under item 3 or 4 see Section 43.

10.3 Parts and accessories for boats

Details of the VAT relief can be found in paragraph 39.5.

11 Building alterations items 8 to 13

11.1 The law

There is no general VAT relief on building modifications for disabled people or on purchases of building or construction materials. However a number of specific reliefs exist within Group 12 as follows:

8. The supply to a handicapped person of a service of constructing ramps or widening doorways or passages for the purpose of facilitating his entry to or movement within his private residence.
9. The supply to a charity of a service described in item 8 for the purpose of facilitating a handicapped person's entry to or movement within any building.
10. The supply to a handicapped person of a service of providing, extending or adapting a bathroom, washroom or lavatory in his private residence where such provision, extension or adaptation is necessary by reason of his condition.
11. The supply to a charity of a service of providing, extending or adapting a bathroom, washroom or lavatory for use by handicapped persons –
 - (a) in residential accommodation, or
 - (b) in a day-centre where at least 20 per cent of the individuals using the centre are handicapped persons,where such provision, extension or adaptation is necessary by reason of the condition of the handicapped persons.
12. The supply to a charity of a service of providing, extending or adapting a washroom or lavatory for use by handicapped persons in a building, or any part of a building, used principally by a charity for charitable purposes where such provision, extension or adaptation is necessary to facilitate the use of the washroom or lavatory by handicapped persons.
13. The supply of goods in connection with a supply described in items 8, 9, 10 or 11.

Legal Notes

(5J) For the purposes of item 11 “**residential accommodation**” means –

- (a) a residential home, or
- (b) self-contained living accommodation,

provided as a residence (whether on a permanent or temporary basis or both) for handicapped persons, but does not include an inn, hotel, boarding house or similar establishment or accommodation in any such type of establishment.

(5K) In this Group “**washroom**” means a room that contains a lavatory or washbasin (or both) but does not contain a bath or a shower or cooking, sleeping or laundry facilities.

11.2 Background and scope of the law

The Group 12 construction reliefs were introduced in 1984 when alterations, extensions and home improvements such as fitted kitchens became standard-rated. Initially the only clear cut case for relief was where a disabled person needed a downstairs bathroom or lavatory in his or her private residence where none already existed, or where doors needed widening or ramps constructed to facilitate the use of wheelchairs. The relief for bathroom and lavatories was subsequently extended to cover charity-run residential homes catering for disabled persons.

VAT law focused upon bathrooms, washrooms and toilets because it was considered that disabled persons were most likely to encounter difficulties accessing personal hygiene and sanitation facilities. Relief was also given to certain work designed to facilitate access, namely the construction of ramps, widening of doorways and passages.

The current reliefs are capable of clear definition, but it would be very difficult to justify a borderline which, for example, distinguished between bedrooms and living rooms; and in practice it would be pointless to try and do so, since the use to which the room was put could be easily be changed.

11.3 Criteria for zero-rating building alterations

Certain basic preconditions must be met before any supply of building alteration services may be zero-rated. These are:

- the supply must be made to an eligible charity or a disabled person; and
- for a disabled person the work must be carried out in that person's private residence.

See paragraph 11.1

11.4 Are the building alterations supplied to a disabled person?

We would not expect you to challenge zero-rating on the basis of the nature of a person's disability – see paragraphs 4.2 and 4.3.

There are however, five particular circumstances in which the question of who has received the supply often arises.

11.4.1 Dependants and minors.

Where building adaptations are supplied to a child, or a disabled dependent relative living with the householder, the supplies would technically be to the householder and not the disabled person. However, in these circumstances zero-rating would normally be permitted.

11.4.2 A disabled person dies before they can take up residence.

Sometimes work which qualifies for zero-rating is commissioned by a relative of the disabled person before that person moves into the residence. The disabled person may then die before being able to move in. It is not our policy to require output tax to be paid by the builder provided you are sure that:

- the work in question qualified for relief; and
- the person for whom the alterations were being undertaken was disabled (and not, for example, merely elderly).

11.4.3 Landlord or tenant?

Zero-rating can be allowed if you are satisfied that the supply is to the disabled person, not to his landlord or local authority. The key factor in deciding to whom the supply is made is “for whom the contract is commissioned”:

- Where the local authority takes over a grant assigned to an individual and carries out the work, perhaps because the person concerned is not able to do so, the supply remains to the disabled person and thus is eligible for zero-rating.
- Where the local authority commissions and pays for the supply, with the disabled person being merely the passive recipient, then the supply will be seen for VAT purposes as being to the local authority and relief will not apply.
- Tenants cannot normally authorise substantial alterations to be made to buildings which they rent. You will generally find, in practice, that any such services will be supplied to the landlord of the property, regardless of who pays for them.

See V1-3 *Supply and consideration* for guidance about direction of supply.

11.4.4 Grants made by local authorities

Disabled people may qualify for disabled facilities grants towards the cost of providing adaptations and facilities in their private residence to enable them to continue living there. Such grants are given by local councils under Part I of the Housing Grants, Construction and Regeneration Act 1996. The council may pay the grant:

- direct to the disabled person; or
- direct to the contractor.

If the grant is paid to the contractor you should check the contractor's records to ensure that:

- the invoice clearly stated that the work was done for the disabled person; and

- VAT was not charged on zero-rated work.

11.4.5 Landlord is a charity

There may be circumstances where building work undertaken for a disabled person's benefit is grant-funded but the local authority pays the grant directly to the contractor who supplies his services to a landlord which is a charity. This work will be zero-rated if the building work being done for the disabled person's charity landlord consists of:

- providing, extending or adapting a bathroom, washroom or lavatory in certain residential accommodation –see paragraph 11.1 - where the work helps the disabled person to use those facilities; or
- constructing a ramp or widening a doorway or passage to enable a disabled person to enter or move within any building – see paragraph 11.10.

If the building work does not qualify for relief under either of the above criteria you should not assume that the work is not zero-rated – see V1-8A *Construction*.

11.5 Is the work carried out in the “private residence” of a disabled person?

Items 8 and 10 (see paragraph 11.1) allow building alterations to be zero-rated only if they are carried out in a disabled person's “private residence”.

11.5.1 What is a “private residence”?

There is no special definition provided for this term, but the phrase “private residence” should be given its every day meaning, which is where a person lives by virtue of a personal rather than a public or general right or characteristic. It does not stipulate for example that it has to be ‘sole’, ‘principle’, ‘primary’ or ‘permanent residence’.

We should not therefore deny relief to a disabled person who had a second home or a holiday home for instance; provided all other conditions are met. They would however have to reside there to some extent.

11.5.2 Is a “private residence” a communal residence?

The word “private” in this context does not require ownership or sole occupation. The fact that a property is occupied by a family does not prevent it being the “private residence” of each of the occupants.

It cannot mean a communal residence, such as a nursing home. Item 11 uses the expression “residential home” to refer to such institutions and so clearly, a disabled person's “private residence” must mean that the disabled person or his family have control over the residence, rather than being simply one of a number of unconnected occupants.

11.5.3 Is the work confined to a single building?

If the person's residence is however, genuinely "private", then zero-rating need not be confined solely to work on a single building, but can be extended to linked or associated buildings, courtyards or gardens. This means that qualifying work can, for example, be zero-rated when related to:

- "granny annexes" or similar, whether attached to or integral with the main dwelling house or in a separate building within the curtilage of the main dwelling house;
- a detached outside toilet of a house, quite possibly at the foot of a small garden;
- the construction of a ramp or the widening of a path across the garden of the disabled person's house;
- the lowering of a pavement outside a disabled person's private residence to facilitate his or her access to that residence; and
- qualifying work relating to the detached garage of a house. Zero-rating is allowable even where, for example, that garage is located down the road - provided the garage is within reasonable proximity of the house or flat and both properties have the same landlord and tenant.

11.6 Construction of ramps and widening of doors or passages in a disabled person's private residence [Item 8]

If the basic preconditions set out at paragraphs 11.4 and 11.5 above have been met, then the following services can be zero-rated under item 8 (see paragraph 11.1):

- constructing ramps or widening doors or passages;
- any preparatory work or the making good of surrounding areas, including: the removal of bricks and mortar;
- the installation of a new frame and surround;
- the supply and fitting of a wider door;
- the re-plastering of the wall adjacent to the new work; or
- the restoration of damaged decor.

11.7 Widening a passage

It is clear from dictionary definitions and legislation such as the Building Act 1984, Section 84 and the Public Health Act 1936, Section 78 that a passage can be outdoors.

External passages are entitled to the relief, whether supplied to a disabled person in their private residence or to an eligible charity building, such as the widening of a narrow path across a churchyard to accommodate a wheelchair.

However the works:

- must relate to an existing path; and
- should be confined to the curtilage of the property (legal owned land) - see V1-8 *Land and property* for further information.

Zero-rating would therefore not apply to the:

- creation of an entirely new path for wheelchair access across church grounds; or
- the provision of a minor road outside the curtilage of the property in question - see V1-8 for further information.

The concept of what functions as a passage was considered in the Tribunal case of **B H Cannings-Knight (11291)**. The Tribunal considered the liability of the widening of a bedroom to allow access through it to the dressing room in the home of a wheelchair-bound disabled person. The dressing room was converted into a bedroom, with a bathroom attached, served by a lift. It was important to have access to the bedroom when the lift was not working (as had been the case on several occasions). The Tribunal had to consider whether the altered bedroom design constituted a “passage” under item 8 as asserted by the Appellant. In upholding the appeal the Tribunal concluded that the bedroom functioned as a “passage”.

“ I emphasise at this point that bedroom 1 is still, and always was, the only means of access (other than the lift) from the staircase landing to the dressing room. In popular language it could be said, where one bedroom leads into another, that the first bedroom is a passage to the second. That is, it has two functions, to be a bedroom and to be a passage.”

It also concluded that the “passage” was not restricted to any particular width or size of area, but was a purposive test; i.e., an area was a passage if it had a purpose (not necessarily a sole purpose) of facilitating access to a room.

This case may be cited to obtain zero-rating for building alteration works in circumstances where it was not intended. You should respond that the particulars of this case were unique, in that the only means (other than by lift) of accessing the “new” bedroom was by means of the existing bedroom.

Allow zero-rating only if the facts are identical. Conventionally, rooms in a property are accessed by a common landing. This decision does not mean that those landings become “passages”.

11.8 Overhead coverings and walkways

Protective enclosures over existing paths, outside passages or similar, to shelter users against the elements, are not ramps and do not facilitate entry within the terms of items 8 & 9. See Section 36 for further information.

11.9 Garage doors

Zero-rating does not apply to the installation of new garage doors. However, before refusing any zero-rating you need to consider whether:

- the door has been widened to facilitate the disabled person's use of the door – see paragraph 11.6; or
- the door has been adapted to suit the disabled person's condition – see Section 43.

You must bear in mind that there is a distinction between businesses which adapt garage doors and businesses who normally supply automatically operated or electrically powered doors as part of their product range. The supply of services by the former can be zero-rated, but the supply by the latter cannot, because the goods in question have not been *adapted* to suit the condition of a disabled person.

11.10 Construction of ramps and widening of doorways or passages in any building [Item 9]

For zero-rating under item 9 (see paragraph 11.1) to apply, the work must qualify against the criteria set out in paragraph 11.7 above. The building work has to be supplied to an eligible charity but:

- the building does not have to be an eligible charity-run building (although this is usually the case); and
- the charity does not have to cater for disabled persons (although it is likely that most will).

11.11 Bathrooms, washrooms and lavatories

Zero-rating is permitted under items 10, 11 & 12 (see paragraph 11.111.1) for the provision, extension or adaptation of a bathroom, washroom or lavatory. Each of those items sets out its own conditions concerning the place where the work is carried out. The conditions are described in greater detail in paragraphs 11.12.

However, in the first instance, the work must be of a type which qualifies for relief under these items. The following works are considered to come within the zero-rate.

11.11.1 Services

The services of providing, extending or altering a bathroom, washroom or lavatory.

11.11.2 Other essential work

This includes:

- demolition of an existing outside toilet;
- preparation of footings including ground levelling;
- provision of water, gas, electricity and drainage as necessary;
- covered access to newly provided facilities; and

- restoration of immediate decor (where appropriate).

11.11.3 Concession for restoration of connected rooms.

By concession we allow that where a bathroom, washroom or lavatory has to be constructed or extended in a space occupied by an existing room such as a bedroom or kitchen, the restoration of a room which has had to be replaced to its original size, can be regarded as part of the work essential to the provision of the qualifying room. Whether this provision is a concession or whether it could be considered to be an interpretation of the legislation was considered in a Tribunal case, Lady Nuffield (19123).

In the Lady Nuffield Home case, the appellant contended that the provision in Notice 701/7 para 6.5 allowing zero-rating of restoring space elsewhere in the building is an explanation of the law and not an extra-statutory concession. The Commissioners' stated that any reference to the economy and feasibility argument which was a part of paragraph 6.5 is not included in Group 12, Schedule 8, VAT Act 1994.

In conclusion, the Tribunal Chairman agreed with the Commissioners that:

If it were the law, there is every reason to suppose that it would have been included expressly in Group 12, but it is not to be found there. If it is not the law, but covers a circumstance in which the Commissioners allow zero-rating which is, strictly, outwith the law, then it is and can only be a concession.

11.11.4 Sensible approach

You should take a sensible approach to these types of building work and allow zero-rating for works which are essential to the completion of a qualifying room such as:

- where for reasons of practicality or because of planning permission, a passageway has to be constructed to allow a disabled person access to a ground floor bathroom. It would be unreasonable to expect a disabled person to be exposed to the elements when moving from the bathroom to another part of the house; or
- where it is only possible to extend an upstairs bathroom in a disabled person's house by building a room underneath to act as the foundations.

However, the following works do not come within the scope of the relief:

- the straightforward substitution of old sanitary ware for new; and
- works to bedrooms and kitchens.

where an extension to provide a bathroom, washroom or lavatory includes a bedroom/dayroom the supply should be apportioned between its standard-rated and zero-rated parts.

11.12 Building alterations to bathrooms, washrooms, or lavatories in a disabled person's private residence [Item 10]

For zero-rating under item 10 to apply:

- the supply must be to a disabled person (see paragraph 11.4);
- the work must be carried out in that disabled person's private residence (see paragraph 11.5);
- the work must be necessary by reason of the disabled person's condition; and
- the work must qualify (see paragraph 11.1).

The principles were demonstrated in the Tribunal case of **Mrs Linda Jean Brailsford (13472)** which addressed the liability of goods and services involved in the provision of a dialysis room to house renal haemodialysis equipment. The Commissioners accepted that the supply of the renal haemodialysis equipment itself and of the services necessarily performed in its installation and operation qualified for zero-rating. Thus, only the tax on the supply of goods and services involved in the provision of the dialysis room was in dispute.

The Commissioners contended that the part of the extension to the house of Mr and Mrs Brailsford which constituted the dialysis room was not a "bathroom, washroom or lavatory" and so did not qualify for relief under item 10 of Group 12. The Tribunal agreed and concluded:

"If the supplies of goods and services relating to the provision of the dialysis room within the extension to the house are to be zero-rated, they must fall within the term 'bathroom, washroom, or lavatory' in item 10 of Group 12. None of those three words is statutorily defined, so that I must decide what each means. A 'lavatory' is, in my opinion, a room in which is to be found a water closet, either alone or with some washing facilities. A 'bathroom' is a room containing a bath and/or a shower. 'Washroom' I take to mean a room containing personal washing facilities other than a bath and/or a shower....

Giving the words contained in the term 'bathroom, washroom or lavatory' their ordinary meanings, I find myself unable to extend the meaning either of the entire term or of any of any one of its constituent parts to include a room containing a renal haemodialysis unit in isolation from washing facilities or a water closet; and there is nothing within item 10 itself which would permit me to extend the meaning".

11.13 The provision of a bathroom, washroom or lavatory in a residential home or day-centre [Item 11]

For zero-rating under item 11 (see paragraph 11.1) to apply:

- the supply must be to an eligible charity;
- the work must qualify; and

- the work must be for the use of disabled persons in a residential home; or
- the work must be for the use of disabled persons in a day-centre where at least 20 per cent of the people using the centre are disabled.

For further information see Notice 701/7 *Reliefs for disabled people*.

11.14 Qualifying work

The general principles set out at paragraph 11.11 apply. However, the installation of a wash hand basin within a bedroom does not convert that room into a washroom or lavatory so there is no VAT relief. This was demonstrated in the Tribunal case of **Mid Derbyshire Cheshire Home (4512)**.

The case concerned several homes for disabled people administered by the Leonard Cheshire Foundation, a registered charity. They appealed against a decision of the Commissioners that the installation of equipment to update the hot water supply system at these homes was standard-rated. We permitted zero-rating for work done in bathrooms and lavatories, but excluded from the zero rate, any work relating to the wash basins installed in bedrooms.

We submitted that the installation of a wash basin in a bedroom did not change that bedroom into a washroom; it remained a bedroom with washing facilities. The Tribunal agreed, and concluded

“What if a room provides facilities for both washing and sleeping? In such circumstances one must look at the primary purpose of the room and in this case there can be no doubt that the primary purpose of the 25 rooms is to provide sleeping accommodation for the residents. Ancillary to that primary use the rooms may be used for washing or presumably for sitting and reading or simply sitting to have privacy. These uses are supplemental to the primary purpose and do not make the rooms washrooms or reading rooms or sitting rooms. I cannot find that the Appellant had 25 washrooms at its premises and so the appeal must fail.”

11.15 Definition of “residential home

The law (see paragraph 11.1) is specific here in that it refers to residential homes or self contained living accommodation provided as a residence on a permanent or temporary basis for disabled people and not private residences. See Notice 701/7 *Reliefs for disabled people* for further information.

11.16 The provision of a washroom or toilet in any building used principally by an eligible charity for charitable purposes [Item 12].

For zero-rating under item 12:

- the work must qualify (see paragraph 11.1);
- the supply must be to an eligible charity; and
- the building must be used principally by an eligible charity for charitable purposes.

Accordingly, Item 12 zero-rates such facilities in village halls, churches etc. It does not zero-rate the installation of toilets in a hospital. This is because hospital patients are not necessarily disabled persons and so the work is not necessary to facilitate the qualifying room for the use of disabled people.

Similarly, zero-rating is not available where a building provides a washroom for disabled people, but is not itself used for charitable purposes e.g. where an eligible charity has use of a couple of rooms on one floor of a building which is predominantly used by other businesses. And - unlike items 10 and 11 - under item 12 zero-rating does not extend to bathrooms.

The Tribunal case of **Mrs D M Brand As Trustee Of Racket Sports For Children With Special Needs (14080)** considered two key issues:

- whether the supply was made to an eligible charity at all; and
- whether the building was used principally for charitable purposes.

Mrs Brand was trustee of Racket Sports for children with Special Needs ('Rascals'), an eligible charity which was situated in a tennis club. The club was not an eligible charity, but a private members club with some 1500 members. Work took place to provide, within the male and female changing rooms, a WC and a shower.

The appellant contended that these works were entitled to zero-rating under item 10B (now item 12, VATA 1994). The Tribunal dismissed the appeal, principally because the Chairman was satisfied that the construction services had been supplied to the Limpsfield Lawn Tennis Club and not to the charity. However, the Chairman also commented that he would in any case have been obliged to dismiss the appeal with respect to the construction of the shower room and lavatory, because

"One of the conditions in item 10B (now item 12, VATA 1994) is that the building .. is used by a charity principally for charitable purposes. In my judgement that condition is plainly not satisfied in this case.....The building, the Club premises, are principally used by the Club as a private members tennis club for its purposes".

Charitable purpose includes business as well as non-business purposes.

11.17 Goods supplied in connection with building alterations [Item 13]

There has never been any provision in the law to relieve supplies to disabled people or eligible charities serving their needs of VAT on purchases of all building or construction materials. The reliefs provided by items 8-12 is essentially for building services and our view is that item 13 is meant to zero-rate only those goods supplied by the supplier of the services for use in carrying out those services. This would mean that if someone supplies the building services to a disabled person other than the supplier of goods the goods couldn't be zero-rated.

11.18.1 Gary Flather (11960)

The appellant was an unregistered disabled person. He appealed against a decision of the Commissioners to refuse zero-rating on building materials supplied to him by a builders' merchant. The materials were used in the construction of ramps, passages etc, designed to facilitate Mr. Flather's access to and movement within his home. These construction services were provided by two unregistered builder/carpenters. The Tribunal held that the goods could qualify for zero-rating and concluded:

"We see no ambiguity about the application of the words used in Item 11 to the present circumstances. The facts show that the building materials were supplied by MMB (the builder's merchant) at the same time the Millers (the building contractor) were supplying their building services; the materials were bought exclusively and wholly for the purpose of the Millers' supplies of services of constructing ramps, facilitating entry and movement within Mr Flather's home and installing a WC. Those materials were actually used in the construction works. There could hardly have been a closer connection between MMB's supply of goods and the Millers' supply of construction services. Putting it the reverse way round, it would be manifestly untrue to say that the goods were not being supplied in connection with the supply of construction services described in Item 8 and 10."

Since the Tribunal case of **Gary Flather (11960)** suppliers can zero rate goods supplied to a disabled person or an eligible charity serving their needs in connection with qualifying construction services. The supply of goods must be to a disabled person or charity, not the supplier of the zero-rated services. The provider of the services must be making a business supply but does not have to be VAT registered. See [Notice 701/7 Reliefs for disabled people](#).

11.18.2 How do I deal with requests for zero-rating of materials?

You will have to advise that a builders merchant or similar can zero-rate a supply if he is happy that the *building work* qualifies for zero-rating and can demonstrate that subsequently to visiting officers. However, there is an important exception where the goods are bought:

- in connection with works performed by a friend or relative for free, or
- in a D.I.Y capacity.

There is no consideration for the service and so the goods are ineligible for the relief, because there is no supply of zero-rated services for them to be "connected" to – see [Notice 701/7 Reliefs for disabled people](#).

12 Carpets

12.1 Special carpets

There are two Tribunal cases where special carpets were considered under item 2(g) (see paragraph 5.1).

12.1.1 Low friction carpets

12.1.2 In the case of the **David Lewis Centre (10860)** the Tribunal considered a wide range of supplies to a charitable institution providing care for people suffering from epilepsy. Item 2(g) (see paragraph 5.1) was considered in respect of special carpets. Carpets of a particular type had been fitted to ensure that epileptic residents would not sustain friction burns during

In the case of **Vassall Centre Trust (LON/01/581)** the Tribunal considered the VAT treatment of various supplies made to a registered charity providing fully accessible accommodation for various voluntary organisations offering services for disabled people. The carpeting throughout the building had been altered and adapted to assist partially sighted people. The Tribunal Chairman stated: convulsions. The Tribunal ruled that relief did not apply because the carpets were of a type which any person might buy. They were not specially designed, but were simply more expensive carpets which were made from materials particularly suitable for the Centre's special needs.

Colour contrast carpets

"The carpets are coloured aubergine but have been adapted by having a light coloured strip (10-12" wide) along both edges until the doorway or access point is arrived at. This is to assist the partially sighted in moving about the building, The edges have different colours to identify different areas in the building. 95% of blind people have some residual vision. The darker areas are movement areas. The doorways must be kept clear. Colour contrast in the interior of the building is very important to make it safe for the blind to move around the building."

The Tribunal Chairman considered item 2 and stated:

"However, we cannot see that the carpeting falls within any of the paragraphs of Item 2 and, specifically not paragraph (g) which is "equipment and appliances not included in paragraphs (a) to (f) designed solely for use by disabled persons". This was not disputed."

13 Chair lifts and stair lifts [Item 2(d)]

13.1 Conditions to be met under item 2 (d)

The following conditions must be met for zero-rating under item 2(d) (see paragraph 5.1):

- the basic pre-conditions for zero-rating (see Section 5); and
- the chair lift or stair lift must be designed for use in connection with a wheelchair.

The VAT relief helps disabled people who are wheelchair users.

Disabled people who are not wheelchair bound are entitled to receive a zero-rated supply of a more “general purpose” lift under the separate provision in Item 16.

13.2 Chair lift

A chair lift is a platform conveyed along a rail up or down the stairs, normally to carry a wheelchair.

13.3 Stair lift

A stair lift conveys the individual between floors, often to a wheelchair at either end. It must be designed in such a way as to be able to transfer the individual easily from the wheelchair to the lift for zero-rating to apply.

It is not the same as the shaft lifts that operate in offices or tower blocks.

13.4 Which lifts are eligible for VAT relief?

The lifts which qualify include stair-lifts and chair-lifts which:

- are fitted with a bracket to enable the wheelchair to be moved with the lift; or
- enable a disabled person to transfer to the lift from one wheelchair and transfer to another wheelchair at the other end.

While the lift has to be capable of conveying a wheelchair bound disabled person up and down stairs or from one level to another, the law does not require the disabled person to be seated in the wheelchair when using the lift.

14 Charity funded equipment

14.1 Item 2 goods purchased with charitable funds

Under items 4-6 of Group 15 (see V1-9 *Charities*) certain relevant goods supplied or donated to an eligible body, plus their repair and maintenance, qualify for zero-rating under Note 3(d).

3 “Relevant goods” means –

(d) goods of a kind described in item 2 of Group 12 of this Schedule;

For more information see VAT Notice 701/6 *Charity funded equipment for medical, veterinary etc uses* and V1-9 *Charities*.

Subject to certain conditions other organisations are able to purchase goods zero-rated. For more information see Notice 701/6 and V1-9.

15 Clothing, footwear and wigs

15.1 What are the conditions for zero-rating?

Subject to the basic pre-conditions for zero-rating which must be satisfied (see Section 5), Legal Note (4)(a) (see paragraph 5.1) and Notice 701/7 *Reliefs for disabled people* zero-rates clothing, footwear and wigs supplied to a disabled person.

15.2 Which items are eligible for zero-rating?

The zero rate for clothing covers items such as:

- incontinence products – see Section 21;
- wigs which are often supplied during illness to mask hair loss; and
- mastectomy bras and mastectomy swimwear.

16 Computer equipment

16.1 Concessions

This Section is under construction.

17 Golf buggies

17.1 What is a golf buggy?

These are familiar vehicles which provide swift movement around a golf course. A general purpose vehicle designed for use by both able bodied persons and those suffering from a medical condition will not be eligible for zero-rating under item 2(g) (see paragraph 5.1) because the vehicle is not designed solely for use by a disabled person.

17.2 Is a golf buggy designed solely for use by a disabled person?

This was considered by the Tribunal in two cases:

- **Foxer Industries (14469)**; and
- **C F Leisure Mobility Ltd (16790)**.

17.2.1 Foxer Industries (14469)

This case concerned the VAT liability of single seater electric golf buggies made and sold by the Appellant for persons having difficulties getting round a golf course. The Appellant believed they were entitled to relief under the Value Added Tax Act 1994, Schedule 8, Group 12, item 2(g).

The Appellant felt that people did not like signing the form at Annex A of Leaflet 701/7/86 *Aids for handicapped persons*, because they did not wish to be called disabled, and so their publicity literature stated that *“All our prices are zero-rated VAT provided those machines are sold as Mobility Vehicles. In all other cases VAT will be 17.5%. In order to qualify for zero-rated VAT please complete the slip below and return.”* There then followed a slip to be filled in which stated *“I am unable to complete a full round of Golf without the use of a mobility vehicle.”*

Customers were asked about their special needs and the buggy specifications - for example the seat and handlebar heights - could then be varied. In dismissing the appeal on the basic design golf buggies, the Tribunal observed that the words “Handicapped”, “Chronically sick” or “Disabled” appeared nowhere on the appellant’s promotional material and concluded:

“In the present case although the Appellants repeatedly said that the buggies were specially designed for use by handicapped or disabled people, it is clear that they were using the words “handicapped” or “disabled” in a wider sense than in some statutory definition. It is apparent from the slip which they asked customers to sign in order to qualify for zero-rating, that they regarded persons who are unable to complete a full round of golf without a mobility vehicle as disabled, regardless of the reason for the inability. The Act defines “handicapped” as “chronically sick or disabled”. The mere fact that a person is beyond retiring age does not mean that a person is handicapped. Indeed it is clear that the Appellant considered that many potential users would not wish to be described as handicapped.”

The Appellant was allowed further time to provide particulars of any supply which it contended qualified for zero-rating in whole or in part, because it departed from the basic design. As a result of that further evidence, the Tribunal accepted that one vehicle was sufficiently changed from a design viewpoint to qualify for zero-rating under item 2(g). For this particular “buggily”, *“a new platform was created, the chassis was cut to shorten it and the golf bag holder was moved to the back to enable the customer to ride with his leg straight”*. The modifications for eight other customers, fell within Item 3 and Note (8), which meant that the total costs of these vehicles had to be apportioned. However, in the main, the Tribunal’s original decision was upheld.

17.2.2 C F Leisure Mobility Ltd (16790)

This case concerned the VAT liability of single seater electric golf carts made and sold by the Appellant for persons having difficulties getting round a golf course. The Appellant believed the carts were entitled to relief under the Value Added Tax Act 1994, Schedule 8, Group 12, item 2(g).

The carts were marketed as golf carts and the literature made no mention of the carts being suitable for use by disabled people. Most of the sales were to golfers and golf clubs. In dismissing the appeal the Tribunal Chairman stated:

“It is clear from the use of the declaration in the form of annex D to Notice 701/1/94 that in many cases – even very many cases – the vehicles are in fact used by the chronically sick or disabled, and are very suitable for them; but it is equally clear from the substantial sales to those who do not sign this declaration, and from the material relating to sales generally, that the vehicles have not within the meaning of the statute been designed ‘specially’ or ‘solely’ for the handicapped. They are in fact marketed to the able-bodied and the disabled alike, for example to those who are simply elderly and inclined to less exertion than when they were fitter, or even to those who find the effort of walking the entire course carrying or pulling their clubs uncongenial.”

18 Hearing aids and induction loop systems

18.1 Historical background

The supply of hearing aids in connection with the services of a health professional was VAT exempt in the UK. In 1988, the European Court of Justice ruled that the exemption for services supplied by health professionals does not extend to hearing aids supplied in connection with the professional services of a registered hearing aid dispenser. As a result, the supply of hearing aids other than the specialised types set out in paragraphs 18.2 and 18.3, is now standard-rated.

Hearing aids are specifically excluded from Schedule 8, Group 12 by Note (4) (see paragraph 5.1), with the exception of those designed solely for the auditory training of deaf children.

18.2 Aids for the auditory training of deaf children

This equipment is eligible for zero-rating – see Notice 701/7 *Reliefs for disabled people*.

18.3 Other eligible hearing devices

There are some specialised hearing devices designed for people with severely defective hearing which are not ‘hearing aids’ as the term is generally used, and can therefore be zero-rated under Item 2(a) or 2(g). For example:

- TV hearing aid - this is an amplifier and earpiece which are connected to a TV set, radio or hi-fi to enable a near-deaf person to hear the sound without turning up the volume on the set; and
- tinnitus masker - this is an earpiece which generates a constant noise to mask the effects of tinnitus (ringing in the ears).
- Bone implant attachments – This is an implant fixed behind the ear of a disabled person to allow sound conjunction through the bone rather than via the middle ear.

18.3.1 Parts and Accessories

Parts and accessories designed solely to be used with eligible hearing devices can also qualify for zero-rating. For example, audio adapters, batteries, may qualify under Item 2(h) as an accessory to the qualifying device under item 2(a) or 2(g).

18.4 Induction loop equipment

18.4.1 What is an induction loop?

It is a system that allows:

- hearing aid users (switched to the T or MT position); or
- anyone wearing an induction loop receiver,
to listen to sound without the interference of airborne
background noise.

18.4.2 Does it matter where the induction loop is installed?

It can be installed anywhere. Remember that the pre-conditions for relief must also be met – see Section 5.

18.4.3 How does an induction loop work?

A loop amplifier is connected to a sound source such as:

- a television;
- a radio;
- a public address system; or
- a microphone.

It amplifies the sound signal and sends it out in the form of an alternating current through the loop. The signal is then converted into sound by the hearing aid and induction loop receiver. It therefore satisfies the “personal use” condition attached to the relief under Item 2(g).

18.4.4 What parts of the system are zero-rated?

The loop amplifier and loop are zero-rated.

Replacement parts and accessories designed solely to be used in the induction loop system are also zero-rated.

There is no VAT relief for standard equipment such as:

- microphones;
- mixers; or
- speakers etc.

18.5 NHS hearing aids

Hearing aids supplied on free loan to NHS patients are not supplies in the course or furtherance of a business activity and accordingly are outside the scope of the tax.

Supplies to health authorities are taxable at the standard-rate.

18.6 Cochlear implants

Cochlear implants supplied by a hospital to a patient in the course of medical care or treatment are exempt from VAT. This is on the basis that the appliance forms an integral part of the VAT exempt medical treatment. See [Notice 701/31 *Health and care institutions*](#).

Medical equipment and appliances supplied to a disabled person for their domestic or personal use also qualify for relief under item 2(a) (see paragraph 5.1).

Domestic or personal use does not however include any use by, or in connection with, an in-patient of a hospital, clinic or similar institution. Where the cochlear implant is supplied to a clinic, or to a customer for use in the course of medical treatment or surgery, this is an onward supply by the clinic to their patient.

The supply of a cochlear implant to a patient in the course of medical treatment is either:

- non-business activity when provided by the NHS; or
- VAT exempt when provided by private health providers.

18.7 Batteries for cochlear implants

The batteries for the implant are eligible for VAT relief as an accessory to an aid for a disabled person provided that the batteries are designed solely for use in the appliance under item 2(h) (see paragraph 5.1).

Standard, general use batteries do not qualify for relief even if purchased for use in the implant.

19 Hoist and lifters [Item 2(e)]

19.1 Conditions to be met under item 2 (e)

The following conditions must be met for zero-rating under item 2(e) (see paragraph 5.1):

- the basic pre-conditions for zero-rating (see Section 5); and
- hoists and lifters must be “designed for use by invalids”.

19.2 Eligible hoists and lifters

Examples of qualifying hoists include hoists for lifting any of the following:

- wheelchairs into motor vehicles;
- people in or out of the bed;
- people in or out of the bath; or
- people on and off the lavatory.

The zero rate applies to the types of lifting chairs and seats which:

- are often operated by automatic button; and
- enable disabled people who need assistance to move from a seated to a standing position.

19.3 Are recliner chairs eligible for zero-rating?

Only recliner chairs which have a seat raising and lowering feature are eligible for VAT relief. The seat must be capable of raising a person from a seated position to a standing position and lowering a person from a standing position to a seated position.

19.4 Are transfer boards eligible for zero-rating?

Transfer boards and similar items used to transfer a person from a trolley to a bed are not lifting devices. They are not eligible for VAT relief under item 2(e).

20 Hydrotherapy pools

20.1 What is a hydrotherapy pool?

A hydrotherapy pool can be used to relieve a variety of conditions. The liability of hydrotherapy pools has been the subject of litigation in VAT Tribunal cases.

Two of the cases related to eligible charities - **David Lewis Centre (10860) and Boys and Girls Welfare Society (15274)**, which cared for disabled people and had installed at their premises a hydrotherapy pool.

The Tribunal also considered in the **Robin Ellis Contracts Ltd, Mr & Mrs Dent (18500)** case whether the supply of hydrotherapy pool with supporting plants and facilities for use by a disabled person is eligible for zero-rating.

In all of the above cases, the VAT Tribunal accepted that the installation of hydrotherapy pool qualified for zero-rating under the VAT Act 1994, Schedule 8, Group 12, item 2(g) (see paragraph 5.1).

However, it remains our general policy that swimming and other bathing pools are not equipment which has been designed solely for use by disabled persons, we now accept that a hydrotherapy pool incorporating certain features is designed solely for their use.

20.1.1 Boys and Girls Welfare Society Tribunal case

In this particular case, the pool had the following features:

- sited indoors
- a lip raised to wheelchair height to avoid people falling into the pool;
- easy access to the water for disabled people;
- railings at two different heights;
- shallow rising steps which went up, over and down into the pool;
- an invalid hoist in a fixed position so disabled people in wheelchairs could be lifted safely and easily in and out of the pool;
- deep enough for disabled children to be helped to walk in it but not so deep that therapists were submerged to above shoulder height;
- the pool floor sloped very gradually between shallow and deep ends;
- special non slip floor tiles to provide better grip and prevent accidents;

- the unit walls within which the pool was enclosed were clad with thermal acoustic wood to reduce the volume of sound. Sound reverberating off normally clad walls can cause muscle spasm for disabled people; and
- the water and atmospheric temperature was maintained at between 32 and 35 degrees centigrade with a relative level of humidity of 60%.

There was also:

- a combination of chemical water treatment;
- a turn round of water to take account of difficulties of incontinence that might be experienced by users of the pool; and
- an environmental control system to provide the right water and air temperature and water quality.

See paragraph 7.4 for further information about environmental control systems.

20.2 When is a hydrotherapy pool eligible for zero-rating?

You should accept a claim for zero-rating of a hydrotherapy pool which is being supplied to an eligible charity or disabled people for their personal use where the pool incorporates the above features.

It would not, however, be reasonable to automatically refuse relief for the supply of a hydrotherapy pool, which does not incorporate all the above features. Your decision will have to be based on your impression about the design of the pool. See Section 3 for general information about design criteria.

In the *Robin Ellis Contracts Ltd, Mr & Mrs Dent* case, it was found that the pool had some of the features listed above. If the pool does not have any or some of the above features, then you should refuse to accept that the pool is equipment which has been designed solely for the use of a disabled person.

20.3 Is the building housing the hydrotherapy pool eligible for zero-rating?

In *Boys and Girls Welfare Society*, the Tribunal found that the pool and the building to house it was a mixed supply of goods and services and denied relief for the construction of the building housing the pool.

However in *Robin Ellis Contracts Ltd, Mr & Mrs Dent case*, the Tribunal found that the pool and its associated plant is a single supply of goods and services.

The Tribunal Chairman stated that:

The facilities in this case were notably utilitarian and of a design suitable for the disabled. They did not serve as a recreational area within the pool enclosure. If we have regard to the Court of Justice's guidance in the Card Protection case, the principal supply was that of the pool and these facilities were ancillary in the sense of not constituting for the customer "an aim in itself, but a means of better enjoying the principal service supplied." In short, the pool, its enclosure and the facilities encompassed within it comprised a single economic supply of equipment within Group 12 Item 2(g) and to attempt to split out its different elements would be artificial and distortive of the true character of the supply.

You need to consider if you should refuse zero-rating on the facts of each case or contact the Charities Policy team if you are unable to reach a decision. For more guidance on construction liability matters, please refer to [V1-8A: Construction](#).

21 Incontinence products

21.1 Conditions for zero-rating

The basic preconditions in paragraph 5.1 must be satisfied. We have always accepted that incontinence products are goods of a kind which qualify for zero-rating. But their supply can only be zero-rated if it is made to:

- an incontinent person (see paragraph 4.3) - who might for example buy the products direct from a chemist's shop or a supplier's mail order catalogue;
- any charity that makes the products available to incontinent people – see Notice 701/31 *Health and care institutions*;
- certain other eligible bodies which pay for the goods wholly from charitable funds or with voluntary contributions - see V1-9 *Charities*; or
- a charitable care institution that provides care or treatment to people, the majority of whom are disabled people.

This relief applies only where an eligible charity purchases products with its own funds.

The relief does not apply to:

- purchases funded by the National Health Service (NHS); or
- any supplies made to non-charitable care institutions.

In certain circumstances a disabled person does not need to complete an eligibility declaration (see Section 44) in order for the products to be zero-rated.

21.2 Retail sales

People who are incontinent and live in their own homes are entitled to buy incontinence products at the zero rate. Eligible incontinence products such as

- disposable and washable incontinence pads including pads that are incorporated in briefs;
- underwear designed for use by an incontinent person such as underwear that is waterproof or leak proof; and
- collecting devices

may be zero-rated on the shelf (no eligibility declaration – see Section 44 - required) provided that the number purchased does not exceed that set out in paragraph 21.4. We accept that due to their specialist nature only eligible individuals are likely to buy incontinence products.

21.3 Internet and mail order sales

Supplies of eligible incontinence products over the Internet or by mail order also qualify for VAT relief providing they are made to individuals and not institutions – see paragraph 21.4.

21.4 Bulk sales

Retailers, Internet and mail order suppliers who sell more than:

- 200 disposable pads;
- 50 washable pads;
- 5 collecting devices; or
- 10 pairs of waterproof or leak-proof underwear

to a single customer, must obtain a signed declaration (see Section 44) or other evidence from the customer, that confirms that the products are purchases by an individual for domestic or personal use, and not by an institution such as a nursing home.

21.5 Nursing homes/National Health Service (NHS)

Only charitable care institutions that provide care or treatment to people, the majority of whom are disabled, and purchase products with their own funds can benefit from the VAT relief. Such institutions should complete an eligibility declaration – see Notice 701/7 *Reliefs for disabled people*.

Non-charitable nursing homes, hospitals and the NHS are not eligible for VAT relief on the purchase of incontinence products.

22 Invalid wheelchairs and carriages

22.1 What are the conditions for zero-rating?

In addition to the basic pre-conditions for zero-rating which must be satisfied (see Section 5), Legal Note (4)(b) (see paragraph 5.1) zero-rates invalid wheelchairs and carriages supplied to a disabled person. Further information can be found in Notice 701/7 *Reliefs for disabled people*.

22.2 What is an invalid wheelchair or carriage?

Invalid carriages are legally defined under The Chronically Sick and Disabled Persons Act 1970, Section 20 which states:

Section 20

Subsection [2] - In this Section

“invalid carriage” means a vehicle, whether mechanically propelled or not, constructed or adapted for the carriage of one person, being a person suffering from some physical defect or disability”

The interpretation of invalid carriages are set out in the Highways Regulations SI 1988 No. 2268 and normally fall within three classes:

- Class (1) – an invalid carriage which is not mechanically propelled, to all intents and purposes a wheelchair.
- Class (2) – a mechanically propelled invalid carriage which is so constructed or adapted not to exceed 4mph. The vehicle is for use on the pavement and not adapted or intended for use on the road.
- Class (3) - a mechanically propelled invalid carriage which is intended or adapted to exceed 4mph but not to exceed 8mph. The vehicle is intended and adapted for use on the road.

Do all three classes of vehicle qualify for zero-rating?

- Classes 1 & 2 qualify for zero-rating as an invalid carriage under Note 4b of Group 12, Schedule 8, VAT Act 1994.
- Legal Note 5(G) excludes a class 3 vehicle qualifying for zero-rating because such vehicles are mechanically propelled and intended or adapted for use on roads (but see para 22.3 and 22.4 below).

22.3 Is a mobility scooter an invalid carriage?

Most mobility scooters and similar mobility vehicles are class 2 or 3 invalid carriages. If you are unsure whether the particular vehicle qualifies:

- ask for the vehicle classification;
- if the vehicle is class 1 or 2 invalid carriage, it can be zero-rated under Note 4(b); and
- if the vehicle is a class 3 invalid carriage, you will need to consider if it can be zero-rated under item 2(g). See para 22.4 and section 3 for more information.

22.4 Is a mobility scooter “designed solely” for use by a disabled person?

If a mobility scooter is excluded from qualifying for zero-rate by Note 5(G), you should consider whether it could be zero-rated under Item 2(g). See also section 3.

In a recent Tribunal case, **Leisure Karts (UK) Ltd (19403)**, the Tribunal agreed with the Commissioners of HM Revenue and Customs that the “All Terrain Mobility Scooter” manufactured and supplied by the Appellant was not “designed solely” for the disabled.

The company manufactures and supplies golf buggies marketed as the “Classic”. Over the winter period, there was an historical decrease in sales, therefore the Appellant designed the “mobility scooter” and marketed for the “disabled” from the “Classic” version to extend their range of products during the quiet periods. The word “disabled”, which could be an indication that the scooters were targeted at the disabled and any use by the able bodied would be incidental, did not appear anywhere in the appellant’s advertising literature.

The Tribunal concluded that:

The adaptations, the fitting of clip on lights, the removal of the basket and fixing of a bracket for golf clubs, would be achieved in a matter of minutes. These additions do not alter the essential character or function of the vehicle and are not of use only to the disabled. What Mr Grafton designed could not therefore be said to have been designed solely for the disabled. His design, with minimal adaptation, was produced and marketed in two forms, only one of which Mr Grafton seeks to contend was for the disabled.

One has to look beyond the description to the vehicle itself, how it was used and how it was marketed. It was promoted as an all terrain vehicle, ideal for the more rugged and uneven surfaces of the countryside. It is certainly possible that the majority of sales of the Scooter will be to the disabled, but in our view, the Scooter would be highly attractive to a not insignificant number of people who are not disabled within the statutory definition in Group 12.

Mr Grafton has designed a scooter capable of travelling at speeds of up to eight miles per hour and adapted for use on and off the road. In its basic form, with the possible exception of the optional swivel seat, it has no features which are of use only to a disabled person. Equally, it has no features which would make it less useful to a person who was not disabled. Its purpose cannot therefore be said to be solely for the disabled.

23 Kitchens

23.1 Is there VAT relief for the fitting of kitchens?

One area which gives rise to difficulty is the fitting of new kitchens. The fact that there is relief in Group 12 for the supply to a disabled person or to an eligible charity of certain services in relation to bathrooms, washrooms or lavatories, makes it is easy to assume that similar relief exists for a kitchen provided, extended or adapted for a disabled person. There are, however, no such equivalent provisions.

23.2 Is there VAT relief for kitchen furniture in a new dwelling?

Kitchen furniture fitted into a kitchen during the construction of a new dwelling, can sometimes be zero-rated in its own right under item 4 of Group 5 (articles of a kind ordinarily installed by builders as fixtures) – see V1-8A *Construction*.

23.3 Is there VAT relief for adapting a kitchen?

Subject to the preconditions in paragraph 5.1 zero-rating is available for existing kitchens under item 2 (g) (see paragraph 5.1), for supplies to a disabled person or to an eligible charity of:

- equipment “designed solely for use by a disabled person” (see Section 3);
- the services of installing such items (see Section 42); and
- the services of adapting goods “to suit the condition of a disabled person” (see Section 43).

This would mean for example, that the service of fitting a specially adapted unit in a disabled person’s kitchen to suit his condition would qualify for zero-rating under item 3 (see paragraph 43.1). However, the supply of the unit itself would not be eligible for zero-rating and does not render other supplies for the kitchen to be eligible for zero-rating.

23.3.1 Tribunal case

These principles were illustrated in the Tribunal case **Donald Bell (1999)**. The appellant arranged for a kitchen to be altered, to facilitate its use by his wife, who suffered from rheumatoid arthritis, and his son, who suffered from muscular dystrophy. Standard items of kitchen furniture, cupboards, cooker and electrical sockets were installed in the kitchen, but the design and layout allowed Mr Bell’s wife and son to reach and use them. Mr Bell argued that the new kitchen had been designed by the supplier solely for use by his wife and son, both disabled. The kitchen as a whole was therefore designed solely for use by a disabled person. The Tribunal chairman, Lord Granchester, in dismissing the appeal said:

“... we ask ourselves whether the items of equipment supplied by Moben to Mr and Mrs Bell appear to us, using the words in their ordinary and natural meaning, to have been designed ‘solely for use’ by a handicapped person. In

our opinion, on the evidence before us, we can only answer that question in the negative. We consider that, on the evidence before us, the equipment supplied by Moben was no different from the standard items of equipment designed for sale, and supplied by Moben, to members of the public generally. The items of equipment were, we hold, simply cupboard units of a style which Mrs Bell and Colin (Bell) could open easily and which were so sited in the kitchen designed for their use that they could reach them easily. The items of equipment, we consider, were neither 'designed solely for use by a handicapped person' nor designed for use by Mrs Bell or Colin, they were designed for anyone to use generally."

23.4 Is there VAT relief for items made to the individual specification of a disabled person?

The VAT Tribunal has ruled that certain items of kitchen equipment and related services can be zero-rated when they are made to the individual specifications of a disabled person.

23.4.1 Softley Kitchens (15034)

The appeal concerned the supply and installation of the "Saint Roch" kitchen, which was "bespoke" designed to the individual specification of each disabled person and featured special units which were more readily accessible by a disabled wheelchair user. The Tribunal confirmed that an entire kitchen cannot be zero-rated but said:

"Each Saint Roch kitchen is designed and manufactured to the specific requirements of the customer and is made individually to order. We find that all the floor based units standing on the high deeply recessed plinth are designed solely for use by a handicapped person and fall to be zero-rated within item 2 (g). We also find that the hob unit described to us was solely designed for a handicapped person (the hob unit was a knee space unit which enabled the disabled person to sit at it). The sink unit's facing is specifically designed with the needs of the customer in mind. Its depth and height have to be calculated and when it is designed, the designer's mind is focused upon the particular needs of the disabled person for whom it is designed. We also find that the wall cupboards with the internal pull out drop down fittings should be zero-rated. The same sort of principles apply to these units in that they were designed specifically and solely for the disabled person who is unable to stand and reach up."

23.4.2 Specially designed equipment

The above decision means that suppliers who design, supply and install kitchens to meet the specific needs of a disabled person will have to charge VAT on appliances such as:

- cookers and refrigerators;
- standard kitchen cabinet units; and
- work surfaces

but will be able to zero rate specially designed equipment such as cupboards which are accessible to wheelchair users.

23.4.3 “Design” or “installation” charges

The charges will have to be apportioned between their standard-rated and zero-rated elements. The fairest and simplest way to do this would seem to be to calculate the total cost of the work, express the standard-rated costs as a percentage of that total, and then apply that percentage to the design or installation charge, to arrive at the standard-rated element. It is however, open to the trader to suggest another method, provided it is fair and reasonable.

23.4.4 Mass production kitchen equipment

Suppliers of mass production kitchen equipment cannot benefit from zero-rating, even if that equipment might be of more use to disabled people than others.

24 Lift installation [Items 16 to 18]

24.1 Introduction and law

Subject to the basic pre-conditions for zero-rating which must be satisfied (see Section 5) zero-rating for the installation of lifts and associated goods is available under items 16 to 18:

16. The supply to a handicapped person of services necessarily performed in the installation of a lift for the purpose of facilitating his movement between floors within his private residence.
17. The supply to a charity providing a permanent or temporary residence or day-centre for handicapped persons of services necessarily performed in the installation of a lift for the purpose of facilitating the movement of handicapped persons between floors within that building.
18. The supply of goods in connection with a supply described in item 16 or 17.

You may also find it helpful to see the flowchart in Section 49 showing the conditions applying to these items and the extent to which zero-rating applies.

24.2 Item 16

Item 16 allows zero-rating for the supply of the services necessarily performed during the installation of an ordinary lift in the private residence of a disabled person. It overlaps with the relief contained in item 2(d) (see paragraph 5.1) as it allows zero-rating to extend to lifts which are not specially designed for use by disabled people but will nevertheless help them to move between floors within their home.

The services of installing a lift can be zero-rated under item 16 provided that:

- the supply is made to a disabled person; and
- the services are carried out in the private residence of that person.

In Section 4, you will find guidance which will help you to decide whether these two tests have been met.

We would allow zero-rating for an external lift at a disabled person's private residence where the only means of access to the disabled person's accommodation on an upper floor is by an external staircase.

24.3 Item 17

Item 17 allows zero-rating for the supply of services necessarily performed during the installation of an ordinary vertical lift in a building where an eligible charity provides permanent or temporary residence or a day centre for disabled persons.

Here, the tests which must be satisfied before a supply can be zero-rated are:

- the supply must be to an eligible charity;
- that charity must provide a permanent or temporary residence or day-centre for disabled persons; and
- the installation of the lift must facilitate the movement of disabled persons within that building.

24.3.1 Permanent or temporary residence

The zero-rating provision is therefore not a blanket relief for the supply of a lift to an eligible charity for use by disabled persons. It is subject to specific conditions, as set out above. If the building is a permanent or temporary residence, then there is no requirement in the wording of item 17 for that residence to be exclusively for disabled people. A supply can be zero-rated if there is at least one disabled person occupying the residence.

24.3.2 Day-centre

Where an eligible charity provides a day-centre, whilst it need not have been set up principally to serve disabled people, it must nevertheless be a place where disabled people receive day care. If day care is not provided to disabled people at the centre then the installation of a lift will not be zero-rated under item 17.

These issues were investigated in the following Tribunal cases:

- **Union of Students of the University of Warwick (13821)**; and
- **Aspex Visual Arts Trust (16419)**.

24.3.3 Union of Students of the University of Warwick (13821)

The appellant claimed that the installation of a lift at the Students Union Building at the University of Warwick was eligible for zero-rating. Prior to the installation of the lift it was not possible for students unable to climb stairs to have access to the two top floors of the Students Union Building, on which were situated a number of facilities available to the remainder of the student body. The lift was therefore intended principally for the use of disabled students, incorporating buttons at a lower level suitable for use by those in wheelchairs and there was also a Braille indicator underneath the buttons to assist the visually disabled.

The Tribunal examined the criteria under item 17. It was satisfied that the lift was installed for the purpose of enabling physically disabled students to have access to the building and that it was used principally by disabled students. However it could not accept that the Union was providing “a permanent or temporary residence or day-centre for disabled persons”. In dismissing the appeal the Tribunal chairman therefore concluded:

“While I accept that the lift was supplied to the Union which is a charity and
--

the supply was made and intended to benefit handicapped persons, I cannot regard the Building which exists to provide facilities for students generally both to the able-bodied and the handicapped as properly described as a “day-centre” within the ordinary sense of the term in modern English.”

“In Item 17 what has to be provided by the charity is a day-centre for handicapped persons. What the Union provides is a centre to which all students may resort but it does not follow that merely because disabled students do in fact resort to it that the centre has been provided *for* (my italics) handicapped persons.”

24.3.4 Aspex Visual Arts Trust (16419)

In the case of Aspex Visual Arts Trust the Tribunal endorsed our view that installing a lift in a former church building which had been converted for use as an art gallery could not be zero-rated because the charity did not provide day care to disabled people.

24.3.5 Installation of lifts in educational establishments

Following the *Help the Aged* (CO2399-96) high court case in 1997, Customs took the view that charitable educational institutions were day-centres for the purposes of Item 17 to Group 12 of Schedule 8 and, consequently, lifts installed in their buildings could be zero-rated.

However, some time later we began to doubt our interpretation of the comments made by the court in *Help the Aged* and we sought legal advice as to our position. It was confirmed that whilst charitable educational institutions have a general duty of care, especially to disabled people, they do not normally provide care in a day-centre as required by Item 17. Therefore zero-rating is limited to the supply of lifts installed in residential accommodation, such as halls of residence. This position is confirmed by the tribunal in the case of *Union of Students of the University of Warwick* (13821). We amended guidance to remove any reference to *Help the Aged* in October 2003, but did not publicise the change in policy more widely.

Following a number of queries from educational institutions in early 2005, we decided that the change in policy had not been publicised as widely as it should have. As a result we issued a Business Brief (03/05) on 21/02/05 informing charitable educational institutions that zero-rating is limited to the supply of lifts installed in residential buildings. However, given the confusion within the educational sector about our policy we decided to allow any charitable educational institutions that had entered into a contract for the installation of a lift in non-residential accommodation between 28 February 1997 and 31 March 2005 to benefit from the zero rate, providing all other conditions have been met.

24.3.6 Repair and maintenance of lifts in educational establishments

The repair and maintenance of a lift that was installed at the zero-rate is normally zero-rated under Item 5 to Group 12 of Schedule 8. Where the installation of a lift has been zero-rated under the transitional arrangements outlined in paragraph 24.3.5 subsequent supplies of repair and maintenance of that lift can also be zero-rated.

Zero-rating did not apply to lifts installed prior to 01 April 1986. Therefore, any repairs and maintenance to lift installed prior to this date is not eligible for zero-rating. This is because where a lift was installed and the standard rate of VAT was applicable, all subsequent repairs / maintenance must also be standard rated.

24.4 Goods supplied in connection with the installation of lifts [Item 18]

If the services of installing a lift are properly eligible for zero-rating under item 16 or 17, item 18 allow goods supplied in connection with those services to also qualify for zero-rating. This item therefore extends zero-rating to the lift and operating equipment. These goods can be zero-rated even when the person who installed the lift does not supply them.

25. Low surface temperature radiators

25.1 Tribunal cases

The Tribunal considered the issue of the liability of low surface temperature radiators in the following cases:

- **David Lewis Centre (10860);**
- **Boys and Girls Welfare Society (15274); and**
- **Cheltenham Old People's Housing Society Ltd (18795)**

25.1.1 David Lewis Centre (10860)

The radiators in question were designed so that heat is evenly distributed and that their surface does not burn the skin if a person falls against the radiator. Although the radiators could be used by anyone, the Tribunal decided that they could be zero-rated because the heating system in its entirety had been designed specifically for the charity. The evidence of the engineers that the high cost of installing and operating it meant that most organisations could not normally afford to install such a system. This was a finding which was made on the facts of the case so unless someone else who is claiming zero-rating for a low surface temperature radiating system can show that the system they are installing or having installed was supplied in identical circumstances to those considered in this case you should refuse zero-rating. It is not an authority for zero-rating supplies of low surface temperature radiators to eligible charities or disabled people.

25.1.2 Boys and Girls Welfare Society (15274)

The Tribunal decision endorses our view that these radiator systems are not designed solely for use by disabled persons. In this case the Tribunal noted that the radiators had a value both in residential homes for disabled people but also in residential institutions for the elderly or able-bodied young children. The Tribunal was not persuaded that had such a system been installed in a residential unit for elderly people who needed to be protected from burning themselves, it would have been designed any differently. The **David Lewis Centre** case also recognised that these systems could be supplied to anyone.

25.1.3 Cheltenham Old People's Housing Society Ltd (18795)

The Tribunal agreed with the Commissioners' view that the heating system was not designed solely for use by disabled people.

Although a significant proportion of the residents of the home are handicapped (as defined for Group 12 purposes) as well as elderly, it is our conclusion that neither the component parts of the heating system nor the heating system taken as an entity can be said to have been designed solely for use by a handicapped person - those who instigated, designed and installed the system acted with the interests in mind of all the residents, handicapped or otherwise. We consider that the installation of the new heating system in the circumstances of this case cannot reasonably be said to be an adaptation of goods within Item 4 of Group 12.

25.2 Low surface temperature radiators installed in bathrooms

The Tribunal also rejected in the case of *Cheltenham Old People's Housing Society Ltd* that the works of installing new heating systems in bathrooms qualify for zero-rating under Item 11 and 13 of Group 12.

The supply of providing, extending or adapting a bathroom, washroom or lavatory for use by disabled persons is zero-rated if this is done in:

- the disabled person's private residence (see paragraph 11.12); or
- an eligible charity's residential home (see paragraph 11.13).

Where low surface temperature radiators are supplied in connection with qualifying construction services, they may also be zero-rated.

If such radiators are fitted as part of the supply in washrooms or lavatories which are being provided, extended or adapted in a building or any part of a building, for use principally by an eligible charity for charitable purposes (see paragraph 11.16), they may also be zero-rated.

25.3 Can radiator covers, pipe covers or safety cabinets be zero-rated?

In the case of **Joulesave EMES Limited (17115)** the Tribunal found that the radiator and pipe covers had been designed solely for use by disabled people and when supplied to an eligible charity providing care for disabled people are eligible for VAT relief. The chairman stated

"We conclude that the supplies of the cabinets in this case should be zero-rated pursuant to Item 2(g) of group 12 of schedule 8 of the Act. The supplies of the pipe covers which are accessories designed to go with the cabinets should be zero-rated pursuant to Item 2(h). The supplies of services necessarily performed in the installation of the cabinets and pipes similarly fall to be zero-rated pursuant to Item 7 of group 12. Having regard to the applicability of Item 2(g) and (h), the supplies that we are considering also seem to us to fall within Item 5 of group 25 of schedule 8."

The basic pre-conditions for zero-rating (see Section 5) must be met before a supply can be zero-rated.

26. Low vision aids

26.1 Spectacles and contact lenses

Legal Note (4) to Group 12 (see paragraph 5.1) excludes spectacles and contact lenses from zero-rating.

26.2 Spectacle mounted low vision aids

Zero-rating applies to spectacle mounted low vision aids which are custom made to the prescription of a qualified optician where the prescription identifies the appliance as a low vision aid – see Notice 701/7 *Reliefs for disabled people*.

26.3 Other low vision aids

Zero-rating applies to technical aids for reading and writing such as closed **circuit video magnification equipment** capable of magnifying text and images –see Notice 701/7 *Reliefs for disabled people*.

27. Medical and surgical appliances

27.1 Conditions to be met under item 2 (a)

The basic pre-conditions for zero-rating (see Section 5) must be met before a supply can be zero-rated under item 2 (a) – see paragraph 5.1.

27.2 Is the recipient “handicapped”?

Paragraph 4.1.3 explains how the term “handicapped” is defined. Many people who purchase medical or surgical appliances, or have them fitted in a hospital, will not be “handicapped”. People who are not “handicapped” include those who:

- have been injured in a car accident and need plates or pins inserted into their legs; or
- are supplied with a collar for a few weeks to overcome “whiplash” injuries.

However, a person suffering from a heart problem which necessitates the fitting of a pacemaker would be “chronically sick”, and so the pacemaker would be eligible for zero-rating.

27.3 What is an appliance?

An appliance is a device or piece of equipment with a specific function. It can be designed for use outside or inside the body. For further information see Notice 701/7 *Reliefs for disabled people*.

27.4 Are the goods “medical or surgical appliances designed solely for the relief of a severe abnormality or severe injury”?

There are certain goods which self-evidently qualify as “medical appliances designed solely for the relief of a severe abnormality or a severe injury”. These include:

- artificial limbs;
- breast prostheses;
- heart pacemakers;
- renal haemodialysis units;
- oxygen concentrators; and
- artificial respirators.

Clearly, they relieve a condition which is severe; and since they serve no other useful purpose, they must have been “designed solely”.

27.5 Non eligible items

The following items are not eligible:

- suture thread;
- plasters;
- bandages; and
- wound dressings.

They are not medical or surgical appliances designed solely for the relief of a severe abnormality or severe injury, even though some of the users might be suffering from those conditions.

27.6 Goods supplied to a disabled person by the NHS

Where the National Health Service (NHS) pays a third party for medical and surgical appliances used by an individual, the supply is to the NHS and not to that individual. This applies regardless of whether the person resides in their own home or in a hospital or institution. The supply to the NHS must be standard-rated, but the onward free supply of health care by the NHS is outside the scope of the tax.

27.7 Goods supplied to non-charitable nursing homes, or to patients in nursing homes

The supply is to the home and not the individual and therefore standard-rated. In the case of **SCA Molnlycke (LON/96/055)**, the Tribunal considered whether supplies of incontinence products for the use of residents of a private non-charitable nursing home “Westgate House” could be zero-rated. The Tribunal found that in reality, the supply was to the home and so had to be standard-rated. This was for two main reasons:

- the non-charitable nursing home was bound by contracts to third parties such as the local authority, to provide a single package of “care” to all its residents and was prohibited from delegating any element of that supply to another party; and
- the residents of Westgate House were not of sound mind and so were incapable of entering into any legal contracts to obtain incontinence products in their own right; in reality the goods were fitted to them as part of a comprehensive care package supplied by the home.

The above factors are likely to apply to any non-charitable nursing home which claims that it can receive zero-rated supplies of item 2(a) goods and so you should refuse any such claims, using the above decision as justification if necessary – see Notice 701/31 *Health and care institutions*.

27.8 Goods supplied to private hospitals

For information see:

- Notice 701/7 Reliefs for disabled people; and

- Notice 701/31 Health and Care institutions.

27.9 Goods supplied to NHS Trusts

We receive many enquiries from NHS Trusts who claim the right to receive zero-rated supplies of a wide range of goods under item 2(a). The NHS is funded for the VAT paid on goods and appliances.

We usually find that many of the goods do not pass the “designed solely” test. For example, surgical collars, may, in a particular hospital be used exclusively for severely injured or disabled patients, but that does not mean that they were “designed solely for that purpose”. They tend to be of a standard design which was intended for as wide a use as possible, including people suffering from short-term “whiplash” injuries as a result of motoring accidents.

If a supplier of medical or surgical appliances claims the right to zero-rate sales to the NHS, you should use these arguments to refute that claim, involving HMRC Charities Policy Team if it seems likely that the trader will proceed to Tribunal.

27.10 Introduction of Legal Note 5A-5I (Anti-avoidance measure)

The inclusion of legal Notes 5A- 5I is an anti-avoidance measure inserted by the VAT (Drugs, Medicines and Aids for the Handicapped) Order SI 1997/2744 with effect from 01 January 1998. Prior to this Order, both private and NHS hospitals and institutions had been involved in schemes which enabled them to recover VAT on purchases, and avoid payment of VAT on such goods.

The Court of Appeal upheld in the case of BUPA, Wellington Private Hospital and St Martin’s Hospital in January 1997 that drugs administered to patients were a zero-rated supply rather than merely part of a composite exempt supply of care in a hospital.

As a result of the decision, the Government announced its intention to bring forward legislation to clarify current law in relation to the VAT treatment of supplies of drugs and aids for the disabled.

27.10.1 Interpretation of Note 5A

Zero-rating does not apply under Item 1, if an individual receiving care or treatment as an in-patient, resident or out-patient of a hospital or nursing home uses the goods. Therefore, if an independent supplier makes available such goods to such individuals, the supply will not qualify for zero-rating.

27.10.2 Note 5B

Where an institution makes available any aids for the handicapped (refer to item 2) to a disabled person while receiving care or medical or surgical treatment as an in-patient, resident or out-patient of a ‘relevant institution’, such supplies shall not qualify for zero-rating. However the supply of wheelchair and invalid carriages to such individuals will qualify for zero-rating – see Note 5C below.

27.10.3 Note 5C

Supplies of wheelchairs and invalid carriages, and parts or accessories designed solely for use with them, qualify for zero-rating when:

- a) the supply is made to a charity; and
- b) the supply is made by persons specified in paragraphs (a) – (g) of Note 5H

27.10.4 Note 5D

Where an independent supplier supplies certain aids for the handicapped (that is, medical or surgical appliances, their parts and accessories and incontinence products and wound dressings) to a disabled person receiving surgical or medical treatment or care as an in-patient, resident or out-patient of a 'relevant institution', zero-rating does not apply.

27.10.5 Note 5E

The supply of goods and services under item 2 will not qualify for zero-rating if:

- it is made in agreement or arrangement of any person mentioned in Note 5H; or
- any part or whole of the consideration is made available by a person mentioned in Note 5H

27.10.6 Note 5F

Where the supply of a wheelchair or invalid carriage is provided by a relevant institution, (see paragraph (g) of Note 5H), zero-rating will not apply. Also, where the whole of the consideration is paid by persons mentioned in paragraph (a)-(f) of Note 5H, zero-rating will not apply.

27.10.7 Note 5G

Zero-rating does not apply to an invalid wheelchair and to an invalid carriage that is mechanically propelled and intended or adapted for use on roads. Refer to section 22.2.

27.10.8 Note 5H

Contains a list of organisations referred to in Notes 5C to 5F. Please refer to legislation for up to date list.

27.10.9 Note 5I

Provides the meaning of 'relevant institution'.

28. Motability

28.1 The law

Items 14 and 15 and Legal Notes (6) set out the VAT treatment of letting on hire of a motor vehicle to a disabled person and the subsequent sales of such vehicles.

28.2 Motor vehicle hired to a disabled person [Item 14]

The zero rate applies to the supply on hire of any motor vehicle, provided that **all** the following conditions are met:

- the business performing the hire service is predominantly concerned with the provision of motor vehicles to disabled persons who are in receipt of the disability living allowances;
- the vehicle is unused at the beginning of the letting period;
- the period of let is at least three years;
- the vehicle is supplied on hire to a disabled person;
- the business is paid for the hire wholly or partly by receiving, direct from the Department for Work and Pensions (DWP) or the Ministry of Defence (MOD), on behalf of the lessee, specific “mobility” allowances to which the lessee is entitled; and
- the payments referred to in Note (7) comprise either a “disability living allowance” or a “mobility supplement”.

The vehicle may be a standard production model. In practice, only vehicles leased by Motability meet all the conditions. This is because Motability operates within the criteria specified, meeting the DWP guidelines. Disabled people who are in receipt of the allowance or supplement mentioned above and who wish to lease a vehicle, simply choose a car from a dealer with whom Motability have an arrangement.

Motor vehicle manufacturers and dealers may be involved in supplying vehicles for the Motability scheme (which have to be supplied standard-rated to Motability) or in dealing with enquiries from or on behalf of disabled people, about the Motability arrangements. We cannot provide details of the exact operation of the Motability scheme, but you can direct enquirers to:

- Motability Customer Information Service on 0845 456 4566 or
- their Internet site www.motability.co.uk

28.3 Excess mileage

Motability excess mileage is further consideration for the zero-rated lease.

28.4 Sale of ex-lease vehicles [Item 15]

The **first sale** of an ex-lease vehicle is zero-rated provided the hire of the vehicle in question met all the conditions set out in paragraph 28.2. Where a lease is terminated before the end of the three year hire period, for example because of illness or death, the onward sale of the vehicle will still be zero-rated.

In practice, Motability sell many of the ex-lease vehicles back to car dealers. Following the case of **Peugeot Motor Co plc (15314)** we accept that the subsequent sale by a car dealer of these motor vehicles is within the margin scheme for second-hand vehicles. Please see *V1-23 Schemes* for more information.

29. Motor vehicles [Items 2 (f) and 2A]

29.1 Who is eligible for VAT relief?

Items 2(f) and 2A read as follows:

2. The supply to a handicapped person for domestic or his personal use, or to a charity for making available to handicapped persons by sale or otherwise, for domestic or their personal use, of –

(f) motor vehicles designed or substantially and permanently adapted for the carriage of a person in a wheelchair or on a stretcher and of no more than 11 other persons;

2A. The supply of a qualifying motor vehicle –

(a) to a handicapped person –

(i) who usually uses a wheelchair, or

(ii) who is usually carried on a stretcher,

for domestic or his personal use; or

(b) to a charity for making available to such a handicapped person by sale or otherwise, for domestic or his personal use.

Legal Notes

5L. A “**qualifying motor vehicle**” for the purpose of item 2A is a motor vehicle (other than a motor vehicle capable of carrying more than 12 persons including the driver) –

(a) that is designed or substantially and permanently adapted to enable a handicapped person –

(i) who usually uses a wheelchair, or

(ii) who is usually carried on a stretcher,

to enter, and drive or be otherwise be carried in, the motor vehicle; or

(b) that by reason of its design, or being substantially and permanently adapted, includes features whose design is such that their sole purpose is to allow a wheelchair used by a handicapped person to be carried in or on the motor vehicle.

VAT relief under items 2(f) and 2A applies the zero rate to:

- adapted vehicles purchased by disabled wheelchair or stretcher users;
- adapted vehicles purchased by certain eligible charities; and
- adapted vehicles purchased by certain eligible bodies under the Value Added Tax Act 1994, Schedule 8, Group 15.

The conditions for VAT relief are set out in Notice 701/59 *Motor vehicles for disabled people*. See Section 5 for the basic pre-conditions for zero-rating which must be satisfied.

VAT relief under item 3 (see paragraph 43.1) applies the zero rate to adaptations to a vehicle to suit a disabled person's condition.

29.2 What does “in a wheelchair” mean under Item 2(f)?

The disabled person must be able to travel in the vehicle whilst seated in their wheelchair.

29.3 What does “substantially and permanently adapted” mean under Item 2(f) for a vehicle adapted to carry a person seated in a wheelchair or lying on a stretcher?

The vehicle must provide the necessary space and facilities for a disabled person to be transported in reasonable safety and comfort. The vehicle must also be adapted to carry the disabled person whilst in their wheelchair /stretcher.

If the vehicle is intended to carry a disabled person in a wheelchair, (either as driver or passenger) it will require a permanently fitted hoist or ramp, so that the disabled person can get in or out of the vehicle while sitting in the wheelchair. The fitted hoist or ramp can be removed for storage whilst the vehicle is in motion.

If the vehicle is intended to carry a disabled person on a stretcher, it must have been substantially and permanently adapted to provide access to, and space within the vehicle for the stretcher and suitable fixtures to secure it.

The Tribunal of **Emperor Enterprises Ltd (11038)** provided criteria by which to judge whether a vehicle is “designed” for a qualifying purpose, or whether its adaptations are “substantial”.

The appellant was a designer and builder of coach built motor caravans, who manufactured a vehicle to accommodate a wheelchair. Features included clamps, a ramp, a widened door, plus modification of the kitchen to enable the wheelchair to access the toilet.

The Tribunal agreed that the vehicle was entitled to zero-rating under item 2(f), concluding;

“It was not the case where the appellant adapted an already built motor caravan. He built the whole of the rear part to the customer's order. It seems to me that that constituted design of the motor vehicle rather than merely its adaptation. That adaptation involved the use of scarce space and was not insubstantial. There was no suggestion that any feature appropriate for carrying a person in a wheelchair was omitted. If this adaptation was not sufficiently substantial, it is not immediately clear to me what adaptation would have been.”

The High Court in **Help the Aged ([1997] STC 406)** held that since a permanent adaptation to a motor vehicle meant that the adaptation had to be for an “indefinite” period, an adaptation need not be irreversible to qualify the vehicle for zero-rating.

29.4 What does “substantially and permanently adapted” mean under Item 2A for a vehicle adapted for a disabled person who is normally a wheelchair user?

Item 2A is more generous, unlike Item 2(f), it does not require the disabled person to remain in the wheelchair or stretcher whilst the vehicle is in motion.

The Tribunal considered in the case of **Quentin Hylands (18560)** whether the motor vehicle supplied to the Appellant was “substantially and permanently adapted”.

In the **Quentin Hylands (18560)** case, the Tribunal considered whether the motor home imported for the Appellant’s father was “**substantially and permanently** adapted for the carriage of a person in a wheelchair”. The Commissioners’ declined relief from import VAT “*on the ground that the ramp was too steep, that it was not considered to be permanent and not considered to be substantial and also unfit for the purpose intended*”.

The Tribunal Chairman agreed with the Appellant’s contention:

The evidence showed clearly that it consisted of a large piece of equipment, the ramps, which were capable of being put in place with reasonable ease to allow the wheel-chair to be pushed up into the vehicle, and of being dismantled and stowed conveniently and tidily within the vehicle. There was also a mounting on the floor of the vehicle to take the wheels of the wheel-chair, which were then clamped in position when the vehicle was moving. This mounting was either bolted or welded to the floor. It appeared to us that the adaptations were certainly capable of being used for so long as the Appellant’s father would require them.

It seems clear to us that without the ramp the Appellant’s father would be unable to enter the Rambler, and without the floor mounting for the wheelchair he would be unable safely to be transported in it. That alone is enough to satisfy the definition of substantial in Notice 701/59.

29.5 Is the vehicle adapted by the supplier of the vehicle?

Dealerships rarely carry out adaptations or conversions. This work is usually sub-contracted to specialist converters. For the vehicle to be zero-rated:

- any necessary conversion work must be done before the vehicle is supplied to the customer; and
- the dealer must be the recipient of the conversion services (although any guarantees may be given to the vehicle customer).

If a business ensures the conversion is carried out before it supplies the vehicle to the disabled person or charity, the whole supply may be zero-rated, provided it receives one payment to cover the cost of both the vehicle and the conversion. This applies even if the supplier arranges for someone else to carry out the conversion.

29.6 Vehicle conversion after the initial supply

A business may supply a standard production vehicle to a disabled person or to an appropriate charity, but with an arrangement to convert the vehicle to meet the criteria under Item 2(f) or 2A at a later stage. If this applies, then only the chargeable conversion is eligible for zero-rating. This is because the title has changed hands, a supply of goods has taken place, and so only adaptation services can be performed – see Notice 701/59 *Motor vehicles for disabled people*.

In certain cases, where a disabled person intends to purchase a converted vehicle to suit his condition and provided the adaptation is carried out within a few days of purchasing the vehicle, we may allow zero-rating. The converter may have to invoice the dealer for the adaptation to the vehicle and the dealer will then re-invoice the purchaser for the sale of a converted vehicle which can then be zero-rated.

29.7 Parts and accessories

A business may zero-rate any parts or accessories with the first supply of an adapted vehicle. Supplies after this first sale, will however, only qualify for the zero-rate under item 2(h), if those goods themselves qualify as having been designed solely for use by a disabled person such as a replacement wheelchair hoist.

The following would not be eligible for zero-rating:

- radios;
- mobile phones; or
- personalised number plates.

29.8 Inspection of vehicles

Since you may need to satisfy yourself that a vehicle meets the requirements of items 2 (f) or 2A, you should reserve the right to inspect a vehicle either prior to the sale at the supplier's premises or afterwards.

If you need to inspect the vehicle after it has been sold, then this can only be done with the co-operation of the supplier and his customers. You must treat these customers with tact and sensitivity. Many people will not normally come into contact with this Department and could be unnerved or distressed to receive a visit from a VAT officer. You need to explain that your enquiry is necessary to check that the vehicle supplier applied the VAT rules correctly. Do not leave the customer with the impression that we might press them for arrears of tax, or that you are checking if they are disabled. That is not our job, nor are we qualified to make that judgement.

30. Overbed tables

30.1 Is there VAT relief for overbed tables?

This type of equipment is frequently used in hospitals, because of its adjustable facility. It is designed for use by hospital patients in general and not just those who are chronically sick or disabled. Overbed tables cannot be said to be “designed solely for use by a handicapped person” and do not qualify for relief under item 2(g) – see paragraph 5.1.

30.1.1 Princess Louise Scottish Hospital (1412)

The Tribunal considered the VAT treatment of an overbed table. The advertising literature described the overbed tables a “flo-top overbed table” of cantilever design similar to that which can be purchased in stores for household use, but with the main distinguishing feature that the height is adjustable upwards or downwards at a touch and will move upwards with the adjustable bed when it is pumped up. The table was clearly of assistance to, and used by, chronically sick and disabled people, but nevertheless, did not qualify for zero-rating. In giving the decision the Tribunal Chairman said:

‘We are of the opinion that the particular value of the table to the chronically disabled is by no means sufficient to enable us to infer that the table was solely designed for them, and an inspection of the table produced by the appellants confirms our view. We asked ourselves; does the appearance and the method of operation of this table suggest to us, using the words in their ordinary and natural meaning, that it was designed ‘solely for use’ by a chronically disabled person? We can only say that the table struck us as eminently practical and convenient for all sorts of hospital patients and was not designed with a particular class in mind.’

30.2 Goods designed for use in hospitals

The Tribunal decision mentioned in paragraph 30.1.1 is helpful in considering goods designed for use in hospitals.

31. Pain relief equipment

31.1 TENS machines

The TENS (Transcutaneous Electrical Nerve Stimulators) machine is a device which provides pain relief by applying an electrical current to the surface of the skin. These machines are of undoubted benefit to sufferers from chronic pain and are widely used by people with disabilities. They are also, however, marketed for use in acute conditions such as sports injuries and the treatment of post operative pain and are frequently used in coping with labour pain.

31.1.1 Neen Design Ltd (11782)

The Tribunal considered the VAT liability of the TENS machine. In concluding that it was zero-rated under item 2 (g) (see paragraph 5.1) The Tribunal was satisfied that someone suffering chronic pain to an extent necessary to require a TENS machine could be said to be ‘chronically sick or disabled’. He acknowledged however that ‘a significant number of supplies are to acute pain sufferers’ and went on:

“To resolve the question I need to examine the design features of the equipment and ask whether these make it something designed for the use of chronic pain sufferers and not designed for the use of acute pain sufferers. The fact that it is used by acute pain sufferers will not disqualify supplies of it from zero-rating so long as its design was solely for chronic pain sufferers.’ ‘Bearing in mind the factors summarised above, I think that the evidence supports Neen’s claim that the MICROTENS and the XENOS equipment were designed solely for use by handicapped persons, i.e. sufferers from chronic pain. I have had some misgivings about the COMPACT-TENS. The description on the brochure, as noted above, shows that COMPACT-TENS is being expressly marketed to sufferers of both acute and chronic pain. I have also concluded that COMPACT-TENS has been designed solely for use by chronic pain sufferers. All the features of the design were introduced to deal with chronic pain. The way the COMPACT-TENS machines is marketed does not in my view displace the fact that it was in all material respects designed for use by chronic pain sufferers.”

31.1.2 Do TENS machines meet the “designed solely” criteria?

In the above appeal, the scientific and medical evidence presented about the original design intention was sufficient to outweigh the fact that a significant number of these machines were used by those suffering from acute (short term) conditions and therefore not ‘disabled’.

This demonstrates that if something was originally designed solely for use by disabled people, the fact that it might now also be used, and marketed for use, by others will not necessarily disqualify it as having been “designed solely” for use by disabled people.

31.2 Are TENS machines eligible for VAT relief?

TENS machines can be zero-rated when purchased by a disabled person for domestic or personal use, or when supplied to an eligible charity that makes them available for use by disabled people.

However, many TENS machines are supplied for use by people suffering short term pain such as in childbirth or sport's injuries. Such people are not regarded as "disabled" for VAT purposes, and so TENS machines supplied to them are taxable at the standard rate.

32. Renal haemodialysis units

32.1 What are the conditions for zero-rating?

In addition to the basic pre-conditions for zero-rating which must be satisfied (see paragraph 5.1), Legal Note (4)(c) (see paragraph 5.1) zero-rates a renal haemodialysis unit supplied to a disabled person and an eligible charity. Further information can be found in Notice 701/7 *Reliefs for disabled people*.

33. Sanitary devices [Item 2(c)]

33.1 Zero-rated products

If the basic pre-conditions for zero-rating are met (see paragraph 5.1) few problems arise when determining whether goods qualify for zero-rating under item 2(c) (see paragraph 5.1). The following products qualify:

- commode chairs;
- commode stools;
- sanitary appliances incorporating a bidet jet and warm air drier; and
- other frames and devices for sitting over or rising from a sanitary appliance.

In essence, the relief is for attachments which enable a disabled person to get on or off a toilet, usually from a wheelchair. The toilet will also be eligible for zero-rating if part of a single supply with the qualifying attachments.

33.2 Products not eligible for zero-rating

Products such as:

- bed pans; or
- bed pan washers

are standard-rated.

34. Soft games rooms and observation windows

34.1 Design, supply and equipping of soft games rooms and observation windows

The liability of supplies of soft games rooms and observation windows was considered by the Tribunal and the High Court in the **David Lewis Centre [1995] STC 485** case. The rooms were used by disabled people for relaxation and the positioning of the window allowed carers to monitor the well-being of patients unobserved.

The High Court confirmed that what had been supplied were standard-rated supplies of construction services.

34.2 Supply and installation of a multi sensory environment

The supply of a multi sensory environment is not a supply of goods. It is a bundle of goods put together to produce a facility for enjoyment and, as such, is the supply of a service and is standard-rated. If the goods are itemised separately then those designed solely for use by disabled people may be eligible for zero-rating if the conditions set out in paragraph 5.1 are met.

34.3 Charge for use of soft games room

There is no VAT relief for the charge for using the facilities of a soft games room. If the soft games room is used to educate disabled people this may be a supply of welfare services – see V1-7 Chapter 22 *Health*.

35. Spa baths and walk-in baths

35.1 What is a spa bath?

These are a variety of baths which have air pumped through by means of a compressor. It is highly unlikely that they will be eligible for zero-rating under item 2(g) as being “designed solely for use by a handicapped person”.

35.1.1 Aquakraft Ltd (2214)

The Tribunal considered a spa bath called an ‘air bath’. This was a bath which pumped air through the water by means of a compressor. Usually, Aquakraft sold standard models to the public, but they also sold more sophisticated models to hospitals and nursing homes. These models were more robust and had additional features such as

- handrails,
- provision for the fitting of a hoist and
- recessed taps for safety.

The manufacturer claimed zero-rating under item 2(g) only for these special models.

The appellant claimed that the special versions were specifically designed for use by disabled persons and produced papers to the Tribunal to demonstrate the benefits obtained from this type of bath; although the Department produced evidence to show that there was no scientific evidence that air baths had any therapeutic value. The Tribunal followed the line taken by previous Tribunals such as **Princess Louise Scottish Hospital** (see paragraph 30.1.1) and concluded that the air bath was standard-rated because all kinds of hospital patients could be expected to use it.

35.1.2 Jacuzzi

A Jacuzzi is a hydromassage bath named after the firm which pioneered the application of the hydro-jet. It is a therapeutic bath designed for use by disabled people.

35.2 Can a spa bath or walk-in bath be zero-rated?

There is VAT relief under item 10 for providing, extending or adapting a bathroom in a disabled person’s private residence – see paragraph 11.11. A spa bath or walk-in bath may be eligible for zero-rating under item 13 if supplied in connection with services under item 10 – see Notice 701/7 *Reliefs for disabled people*.

36. Walkways

36.1 What is a covered walkway?

A walkway is:

- a covered path providing shelter from the elements; or
- a covered bridge above the ground linking buildings and providing shelter from the elements.

In the Tribunal case of **Portland College (9815)**, which concerned an eligible charity providing training and education for disabled students, the walkways were described as follows

“.....”a series of expensive bus shelters bolted together”. This is very apt. They are flat roofed, the roof being galvanised steel sheets. One side is glazed in toughened glass whilst the other side is open to the elements consisting simply of steel supports for the roof.”

36.2 Is there VAT relief for walkways?

Many walkways are beneficial to disabled people, enabling them to move more easily from one building to another. However, they do not incorporate any special features that render them “designed solely for use by a handicapped person” and so are not eligible for zero-rating under item 2(g) (see paragraph 5.1).

36.2.1 Pre-fabricated covered walkways

The **Portland College** appeal concerned the erection of pre-fabricated covered walkways. The manufacturer said that the walkways were specifically designed for the college and were provided for the use of people with disabilities. Customs produced the manufacturer’s brochure showing similar structures at Gatwick Airport and Lymington Ferry. The manufacturer said however that the walkways had been designed for the college and then subsequently adapted for the wider commercial uses shown in the brochure. The Tribunal considered whether the walkways could be regarded as equipment or appliances designed solely for use by a disabled person. The Tribunal chairman, Mr A Hilton said:

“I do not question the fact that the sole purpose of erecting the walkways was to provide protection for students, all of whom were handicapped persons, when moving about the campus of the college. The fact that they are also usable by able-bodied persons is a fact which did not influence the college when acquiring the erections. That is not sufficient.”

The Appellant argued that these works qualified for zero-rating under item 8, but this was rejected by the Tribunal chairman, who said that

“The protection offered by the walkways certainly makes movement on the site more comfortable but I do not find that they are necessary as would be ramps or wider doors. To say that route is uphill and so equates to a ramp is

not germane to this appeal. The paths or roadways were already there, the walkways were simply weather protection erected over the existing routes.”

He concluded:

“Whilst I have every sympathy with the appellant’s activities I cannot find any justification for the claim that the walkways were designed solely for the use of handicapped persons. They are similar to installations that can be found in many places and cannot be brought within the requirements for zero-rating either under Group 14 or Group 16.”

37. Writing boards

37.1 Are writing boards eligible for VAT relief?

Sloping writing boards were originally designed and developed for use by office workers. The design was re-designed with deeper grooves and a steeper sloping angle for use by disabled people. Zero-rating cannot apply to a general purpose item that is marketed for use by disabled people even if some changes are made to the design to make it useful for disabled people. An objective test must be applied to see if the item has been designed solely for use by a disabled person. The design intention must be met for zero-rating to be achieved.

37.2 Adjustable magnetic sloping writing board

In the Tribunal case of **Posturite (UK) Ltd (7848)** the appellants had designed and manufactured an adjustable magnetic sloping writing board and claimed that they had designed it solely for the use of disabled people.

Posturite had originally designed and developed a sloping writing board for use by office workers. They then discovered that they had designed something which had the possibility of being of use to disabled people. They took the advice of professionals and of disabled people as to their needs. They then redesigned the board with the needs of disabled people in mind. This involved deepening the grooves and ensuring that the board could come up to a steeper angle.

This new board was marketed by Posturite as helpful to disabled people; particularly those suffering neck and back pain and to those in wheelchairs who could not lean forward. Partially sighted people could also use it to hold reading material at the optimal level. However, the company's publicity material still showed the redesigned board as useful for office workers generally. It also indicated that it was useful to persons who suffer from neck and back pain in an office environment but who may not be chronically sick or disabled. Mr Millar CB, in giving his ruling said:

“...the word ‘designed’ in the particular context of sub-paragraph (g) is not used in the sense of ‘destined’ or ‘intended’ but in the sense of something being planned and fashioned in such a way as to have the quality that it is for use solely by a handicapped person.’ He went on ‘I cannot accept that something which is so designed and constructed as to be of use for a wide range of persons and not just the handicapped can be regarded as designed solely for use by a chronically sick or disabled person. In those circumstances I reject Mr Yorke’s submission that it is neither here nor there that the board may be bought and used by an able bodied person to relieve his neck or back pain.

In my judgement his suggested construction of the paragraph makes no sense in that products of similar utility for able and disabled persons would, on his interpretation, be zero-rated if targeted entirely towards the handicapped but standard-rated where the designer looked towards a wider market for his

product”.

38. Other equipment and appliances designed solely for disabled persons [Item 2(g)]

38.1 Tests to be satisfied under item 2 (g)

In addition to the basic pre-conditions for zero-rating which must be met (see Section 5 you should consider whether the tests which are specific to item 2 (g) are satisfied. These are:

- the goods must be “equipment or appliances”; and
- the goods must be “designed solely for use by a disabled person”.

38.2 Equipment and appliances

The general principle underpinning item 2(g) is that “equipment and appliances” must be construed in the context of item 2 as a whole, and not viewed as a stand-alone phrase.

Item 2 lists a number of substantial items of goods, most of which operate to assist the movement of a disabled person.

Articles such as sprays, chemicals etc are more in the nature of substances than equipment and so do not qualify for zero-rating, even though they may be of benefit to some disabled people.

38.3 Are the goods “designed solely”?

See paragraph 3.1.

38.4 Gathering the evidence

Before attempting to reach a decision, you should make sure that you have gathered together all the relevant information – see paragraph 3.5.

38.5 How to decide if goods are “designed solely”

The fact that an item will in a particular case be useful to a person in coping with their disability is not sufficient. Nor is the fact that the goods are to be installed in a particular way, or in a particular place, so as to facilitate their use by a person with disabilities. Conversely, a product may be used by disabled and able-bodied people – see paragraph 3.5.

39. Parts and accessories [Item 2(h)]

39.1 Conditions to be met under item 2 (h)

For parts or accessories to benefit from zero-rating under item 2(h) (see paragraph 5.1):

- the basic preconditions for item 2 (see Section 5) must all be satisfied;
- the parts or accessories must be for goods which qualify for zero-rating in their own right under items 2 (a) to (g); and
- the parts and accessories must have been designed solely for use in connection with those qualifying goods.

Parts and accessories for use in boats may also qualify for zero-rating - see paragraph 39.5.

39.2 What is a part?

See Notice 701/7 *Reliefs for disabled people*.

39.3 What is an accessory?

See Notice 701/7 *Reliefs for disabled people*.

39.4 Are parts and accessories “designed solely” for use in or with qualifying goods?

Examples of parts and accessories eligible for zero-rating are:

- the foot rest for a wheelchair could be zero-rated because it clearly has no use other than in connection with the wheelchair and so passes the “designed solely” test; and
- a replacement lever for a chair lift.

Examples of parts and accessories not eligible for zero-rating are:

- standard batteries supplied for use in an invalid scooter; and
- a mobile phone supplied for use in a qualifying vehicle.

The issue of whether products could be considered as parts and accessories featured in the following Tribunal cases:

- **The Princess Louise Scottish Hospital (1412);**
- **Ian Mills (1893);**
- **Alec C Wesley (9074); and**
- **Poole Shopmobility (16290).**

39.4.1 The Princess Louise Scottish Hospital (1412)

The Appellant proposed as one of the arguments for zero-rating the supply of overbed tables that they were eligible under 2(h), as parts and accessories designed solely for use in or with the goods in 2(b), namely “electrically or mechanically adjustable beds designed for invalids. The Appellant argued that the table conformed in every respect with the various positions of the bed and had obviously been designed by the same designer, but the Tribunal dismissed the appeal, stating that:

“This is not, however, the same as saying that the table was designed solely for use with the bed, and indeed, the table is not included in the list of matching accessories for the beds...”

39.4.2 Ian Mills (1893)

The appeal concerned a decision of the Commissioners that the supply of a generator was liable to VAT at the standard rate. The generator was acquired to ensure an electrical supply to enable Mr Mills’ daughter, Nicola, to use her nebuliser in the event of a power cut. The Commissioners submitted that generators are portable power sources and so were not designed solely to operate a nebuliser. The Tribunal agreed, concluding that:

“... the brochure put out by Honda UK Limited indicates that the advertised uses are both domestic and light industrial, and there is no mention therein of any equipment or appliances designed solely for the handicapped.” It also dismissed the Appellant’s contention that the black box constituting the nebuliser and the generator together constituted equipment or an appliance designed solely for use by a handicapped person, holding that they were “separate and distinct chattels, and are not supplied together as one unit”.

39.4.3 Alec C Wesley (9074)

This case concerned a portable generator providing power to a stair lift in the event of a failure in the mains power supply. The generator was an all-purpose electric generator which could be used other than for the operation of the stair lift.

39.4.4 Poole Shopmobility (16290)

In this case the Tribunal considered whether the batteries for wheelchairs and mobility scooters are eligible for VAT relief. The appellant argued that the batteries are integral parts of the vehicles. The Chairman decided

“The batteries are “all purposes” batteries. They are used in a much wider range of appliances and vehicles than simply scooters and wheelchairs for the disabled.”

39.5 Parts and accessories for boats

Although item 2(h) of Group 12 (see paragraph 5.1) applies to supplies of parts and accessories designed solely for use in or with goods described in items 2 (a) to (g) the law does not mention paragraph (i). We consider this to be a drafting error and accept for reasons of practicality, fairness and ease of administration that item 2(h) should also apply to goods described in item 2(i). It follows therefore that you should allow zero-rating where a person supplies parts and accessories which meet all the other criteria of item 2(h) even when they are supplied for use in a boat which qualifies for relief under item 2(i).

40. Hire of goods

40.1 The law

Legal note (5) (see paragraph 5.1) extends zero-rating under item 2 to the hire of qualifying goods, provided:

- the supply is made to an eligible charity or to a disabled person; and
- the supplier receives from the customer an eligibility declaration relating to the goods in question.

The basic pre-conditions for zero-rating (see Section 5) must be met before a supply of hire can be zero-rated.

41. Repair and maintenance

41.1 The law

Items 5 and 6 to Schedule 8, Group 12 which read as follows:

5. The supply to a handicapped person or to a charity of a service of repair or maintenance of any goods specified in item 2, 2A, 6, 18 or 19 and supplied as described in that item.

6. The supply of goods in connection with a supply described in item 3, 4 or 5.

41.2 Repairing and maintaining goods

Zero-rating is provided for the repair and maintenance of goods which qualify for zero-rating under items 2, 2A, 6, 18 and 19, namely:

- medical and surgical appliances (see Section 27);
- adjustable beds (see Section 6);
- chair lifts (see Section 13);
- hoist and lifts (see Section 19);
- sanitary devices (see Section 33);
- emergency alarm call systems (see Section 8);
- motor vehicles - specifically designed or adapted (see Section 29);
- boats (see Section 10);
- other equipment and appliances designed solely for disabled persons (see Section 38);
- parts and accessories (see Section 39);
- goods supplied in connection with the services necessarily performed in the installation of a lift either in a disabled person's private residence or an eligible charity run residence or day centre for disabled persons (see Section 24); and
- goods used in connection with the adaptation of general purpose goods to suit a disabled person's needs (see Section 43).

A business can zero-rate the supply of repair and maintenance services provided:

- the supply is made to a disabled person or an eligible charity; and

- it receives an eligibility declaration as set out in VAT Notice 701/7 *Reliefs for disabled people*.

41.3 Goods supplied in connection with adaptation or repair and maintenance

Item 6 (see paragraph 43.1) allows zero-rating for goods supplied in connection with:

- adaptation; or
- repair and maintenance services

provided those services are properly eligible for zero-rating under items 3, 4 or 5 (see paragraph 43.1).

This applies only to goods which are ancillary to the service of the adaptation, or repair and maintenance and not to the goods which are themselves the subject of the adaptation, repair and maintenance.

Where the materials are supplied separately and directly to the disabled person or charity by a merchant this creates liability difficulties, as the zero-rating is intended to convey relief for goods supplied in connection with services *and by the same person*. A similar principle applies to item 13 - please refer to paragraph for further information.

42. Installation services

42.1 The law

Item 7 Schedule 8, Group 12, which reads as follows:

7. The supply to a handicapped person or to a charity of services necessarily performed in the installation of equipment or appliances (including parts and accessories therefore) specified in item 2 and supplied as described in that item.

42.2 What installation services are covered by Item 7?

Zero-rating under item 7 (see paragraph 43.1) is confined to services integral to the installation of the equipment or appliances such as:

Eligible for VAT relief	Not eligible for VAT relief
<ul style="list-style-type: none">• Plumbing in a sanitary appliance• wiring up an electrically adjustable bed;• installing a chair lift	<ul style="list-style-type: none">• building of a structure to “house” the installation.

The relevant item 2 goods (see paragraph 5.1) are zero-rated whether supplied as part of the installation service or separately as goods.

Where parts and accessories are used, these are eligible for zero-rating provided they are part of the single supply of installation services.

Parts and accessories supplied separately are eligible for relief under item 2 (h) - see paragraph 5.1.

See Notice 701/7 *Reliefs for disabled people*.

43. Adapting and installing goods

43.1 The law

Zero-rating is available for a number of services which constitute adaptation, repair and maintenance, or installation. The text of the relevant items (VAT Act 1994, Schedule 8, Group 12) reads as follows:

3. The supply to a handicapped person of services of adapting goods to suit his condition.
4. The supply to a charity of services of adapting goods to suit the condition of a handicapped person to whom the goods are to be made available, by sale or otherwise, by the charity.
6. The supply of goods in connection with a supply described in item 3, 4 or 5.

There is also an associated legal note, which reads;

- 8) Where in item 3 or 4 the goods are adapted in accordance with that item prior to their supply to the handicapped person or the charity, an apportionment shall be made to determine the supply of services which falls within item 3 or 4.

In Section 49 you will find a flowchart showing the relationship between the above items.

43.2 Adaptations to goods [Items 3 & 4]

The clear purpose of items 3 and 4 is to relieve from VAT the costs involved in adapting standard-rated goods to meet the special needs of disabled people. A business can therefore zero rate adaptation services provided:

- the adaptation is clearly of a kind to suit the condition of the disabled person;
- the supply is made to a disabled person or an eligible charity; and
- it receives an eligibility declaration as set out in VAT Notice 701/7 *VAT reliefs for disabled people*.

For example, a disabled person with limited mobility may have a remote controlled opening and closing device fitted to a front door to enable the door to be opened and closed. This means that the door is adapted to suit the disabled person's condition. Adaptations to buildings [Items 3 and 4]

Buildings are not goods although the first grant of a major interest is deemed to be a supply of goods by virtue of, the VAT Act 1994, Schedule 4, paragraph 4, – see V1-8A *Construction*. This means that the alteration or adaptation of a building to suit the condition of a disabled person is not a supply of adapting goods so items 3 and 4 of Group 12 of Schedule 8 do not apply. This approach has been supported by the Tribunal in the case of **Arthritis Care (13974)**. The only reliefs which apply to adaptations of buildings are those set out in items 8-12 (see paragraph 11.1) and 16-17 (see paragraph 24.1) of Group 12, Schedule 8.

43.3 The apportionment provision [Note (8)]

Note (8) permits the supply of goods adapted prior to sale to be apportioned between the standard-rated goods and the eligible zero-rated adaptations (see paragraph 43.1).

43.3.1 Audio described videos

An example of where this provision is used is the “Audio Described Videos” produced by the Royal National Institute for the Blind. These videos allow a blind person to enjoy a video which other family members may be watching, by adding an audio commentary which describes the action taking place on the screen. The product remains essentially a video, and so cannot be said to be “designed solely for use by a disabled person”. However, these standard-rated videos have been adapted to facilitate their use by people with a disability, and so the law provides for an apportionment to be made so that the value of the adaptation can be zero-rated.

43.3.2 Foxer Industries (14469)

The apportionment provision was considered by the VAT Tribunal in this case which concerned the supply of golf buggies. The Tribunal Chairman commented specifically on the “considerable difficulty” presented by note 8 (see paragraph 43.1) and the fact that it was not valid to look merely at the price difference between the adapted model and a standard factory model.

Although the Chairman did not propose a set formula for operating the apportionment he did indicate that initial research and development costs related to the adaptation should be costed as zero-rated in addition to the basic extra cost passed on to the customer.

43.3.3 Apportionment of VAT

You should accept any method of apportioning a supply of goods to ascertain the zero-rated adaptation element provided it takes account of the original research and development costs and, overall, produces a fair and reasonable result.

44. Eligibility declarations

44.1 What is an eligibility declaration?

In order to qualify for VAT relief you will need to be satisfied that a supplier has obtained the necessary information to confirm that the purchaser intends the criteria for zero-rating to be fulfilled. To demonstrate entitlement to the relief, both eligible individuals and eligible charities are asked to provide their supplier with a simple written declaration stating their eligibility. You cannot insist on this information being produced in a fixed format. However, HMRC has produced specimen declarations in *Notice 701/7 VAT reliefs for disabled people*.

You should also note that there is no legal requirement for the purchaser to provide a certificate or declaration. Therefore, the absence or lack of completeness of any such documents would not, by itself, render the supply ineligible for zero-rating. If the supplier is able to demonstrate, in some other way, that the conditions for zero-rating have been or, if that haven't, that they took reasonable steps to confirm eligibility, then, zero-rating is appropriate.

Suppliers should be discouraged from:

- asking the disabled person to provide a doctor's certificate confirming their disability;
- removing labels from the disabled person's medication; or
- similar 'independent' confirmation

instead of asking for the person to complete an eligibility declaration. Such requests are intrusive and, in the case of the second example above, potentially dangerous.

44.2 Use and misuse of eligibility declaration forms

Although there should be a correlation between the disability described on the declaration and the goods purchased, no medical or similar corroboration of a person's disability (or of an eligible charity's activities with regard to disabled people) is required. This leaves the door open to abuse, particularly where the goods involved are high value items. There is a danger that retailers will accept relatively dubious declarations because they believe, rightly or wrongly, that competitors are accepting them and gaining a trading advantage.

44.2.1 Validity

The supplier's systems and procedures should not require or lead customers to make automatic declarations, for example, if a customer is required to give a simple signature to confirm order/sale and declare eligibility for zero-rated goods. Such practices should be challenged and you should only accept these declarations if you are satisfied that there are adequate controls to ensure customers obtain reliefs.

You should, however, only question an individual's eligibility declaration if:

- it seems that the goods would not be needed by the disabled person by virtue of his or her disability - for example a deaf person requesting zero-rating for the installation of a shower; or
- the goods shown on the sales document do not qualify for zero-rating under the relevant item of Group 12.

You should not question the validity of an eligibility declaration on the grounds that the purchaser is not disabled, or the charity does not serve the needs of disabled people, unless you have specific information that suggests this is not the case.

44.2.2 Who can complete and sign the eligibility declaration form?

There may be instances when the disabled person will be unable to sign the declaration, The disabled person may be:

- a child; or
- unable to write.

In such cases, the signature of:

- a parent;
- guardian;
- representative;
- doctor; or
- other health professional

is acceptable on the declaration.

We accept that goods or services are supplied to a disabled person when supplied to a:

- parent;
- spouse;
- guardian; or
- trustee acting on that person's behalf.

44.2.3 Misuse of declaration forms

Suppliers should ensure that the declarations are accurate and there is entitlement to the relief.

If, having taken all reasonable steps to check the validity of a declaration, a supplier fails to identify an inaccuracy, and in good faith makes a supply at the zero-rate against an incorrect declaration, we will not seek to recover the tax – see Notice 48 *Extra-statutory concessions*.

The extra-statutory concession will not apply if the goods themselves do not qualify for the relief under Group 12.

45. Exports and removals from the United Kingdom

45.1 Supplies to visitors

The same basic pre-conditions for zero-rating set out in Section 5 apply to goods and services supplied in the UK, regardless of whether the purchaser is a disabled UK resident or a disabled visitor from abroad. Some goods supplied to visitors may not be eligible for zero-rating under Group 12, but businesses may still be able to zero-rate the supply under the retail export scheme see Notice 704 *VAT retail exports*. That scheme applies only to persons resident outside the European Community who are exporting the goods to a place outside the European Community.

45.2 Exports

For exports and removals of goods from the United Kingdom see Notice 703 *Exports and removals of goods from the UK*.

45.3 Supplies to disabled persons or eligible charities in another Member State

Where the value of a UK supplier's sales to citizens of any single Member State exceeds that state's threshold for distance selling, then the "distance selling" rules will apply to that supplier. This means that:

- the other Member State becomes the place of supply; and
- VAT on any sales to that State becomes due there at the rate applicable in that state.

However, in the majority of cases, sales by United Kingdom suppliers to individuals in other EC countries will not breach distance selling limits, and so these goods will be subject to UK VAT. These sales will thus be subject to the conditions of Group 12 in the same way as any other sales, and will be zero-rated if the relevant conditions are satisfied.

45.4 Use of eligibility declarations for sales to EC Member States

The eligibility declaration regime applies to these sales in exactly the same way as it does to internal, UK sales. If a UK supplier sells to individual disabled persons or eligible charities in other EC Member States, he should ask those customers to provide a declaration in the normal way see Section 44.

This means that:

- citizens of all Member States are treated equally,
- administration of the tax is simplified, and
- the risk of abuse and avoidance is minimised.

The eligibility declaration is not a legal requirement and it might be possible for a disabled citizen of another Member State - particularly one who has been refused VAT relief on his or her purchase - to complain about having to complete one.

As with all other instances in which you refuse relief, you should be careful to stress that you are doing so because the goods do not qualify, and are not questioning whether the customer is disabled or not. This may help to defuse any complaints from EC customers; but if you feel that a supply to a citizen of another Member State is likely to become the subject of a VAT Tribunal, you should contact HMRC Charities Policy Team for further advice.

46. Imports into the United Kingdom and acquisitions from other Member States

46.1 Imports

For conditions and information about the VAT treatment of goods purchased from a country outside the European Community see VAT Notice 701/7 *VAT reliefs for disabled people*.

46.2 Acquisitions

For conditions and information about the VAT treatment of goods purchased from another Member State see VAT Notice 701/7.

47. Disabled Students' Allowance

47.1 What is the Disabled Students' Allowance?

The Disabled Students' Allowance (DSA) is a scheme operated by the Department for Education and Skills to make grants to assist disabled students with the additional costs that they face as a result of their disability. Costs funded by DSA include:

- taxi fares; and
- equipment such as computers.

47.2 How is the payment made?

Payment is made:

- direct to the student to purchase goods themselves; or
- to the local authority to purchase goods on behalf of the disabled person.

In either case, the purchaser of the relevant goods or services is the disabled person.

47.3 What does the supplier of goods paid for by DSA need to support zero-rating?

Not all goods and services purchased with DSA funds are eligible for zero-rating, but provided that the supplier can demonstrate that:

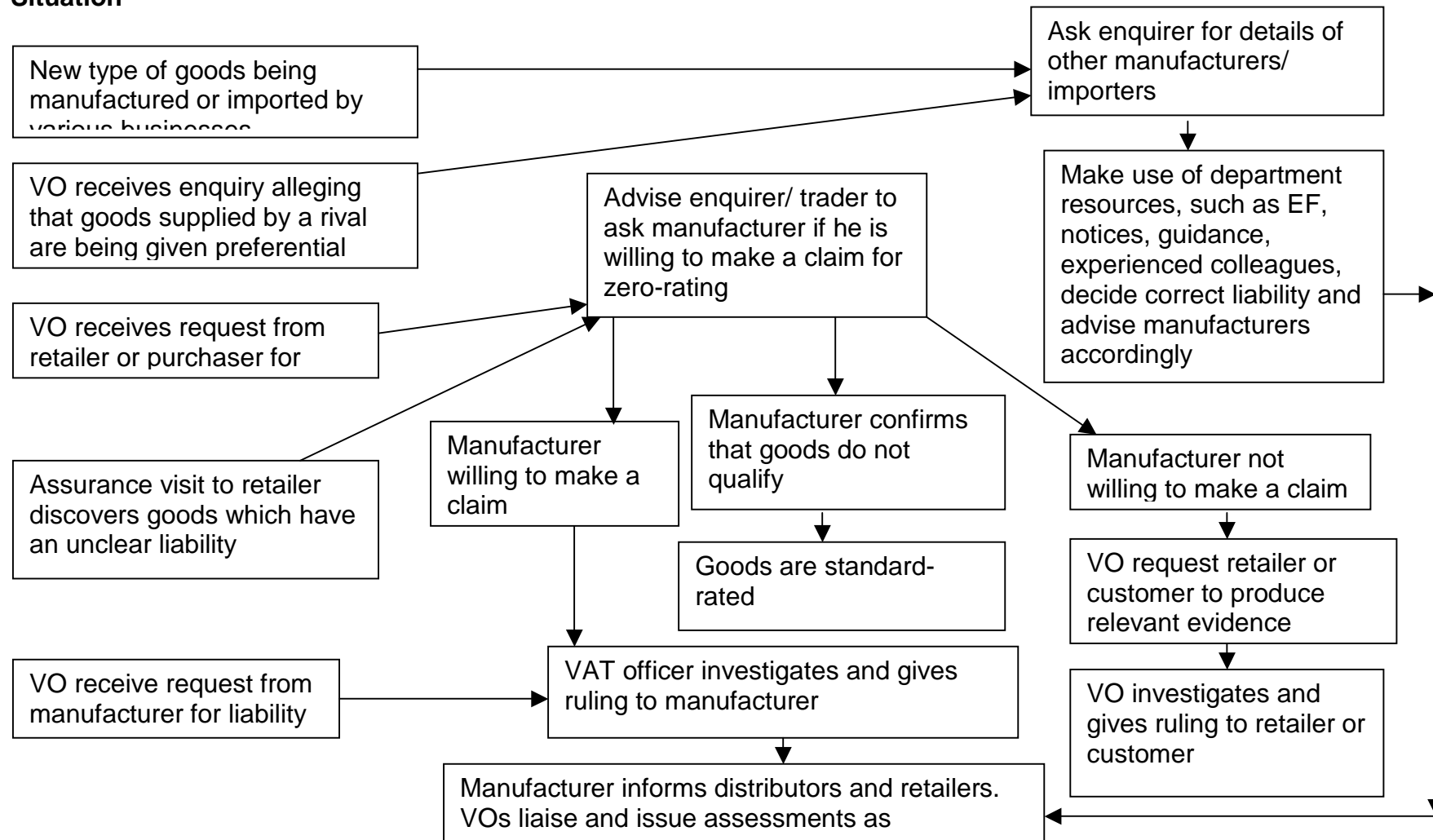
- the goods purchased were designed solely for use by a disabled person; and
- the purchase was funded by DSA

we should accept, without a formal declaration (see Section 44) from the purchaser that:

- the purchaser of the goods is a disabled person; and
- the goods are for that person's domestic or personal use.

48. Determining VAT liability

Situation



49. Links between the items of Group 12

This table gives a brief overview of the items of Group 12 and their inter-relationships. It should not be used as a substitute for the fuller guidance on any item which is provided elsewhere in this guidance.

Supply must be to...	Description	Relief extends to
Handicapped person for domestic or personal use	Item 2: - some medical/surgical appliances - adjustable beds - commodes - chair/stair lifts - hoists - adapted cars - other equipment designed solely for use by a disabled - parts and accessories for above - adapted boats	Services performed during installation (item 7)
Charity which makes it available to handicapped as above		Repair and maintenance (item 5)
Charitable institution providing care or medical or surgical treatment for the handicapped		Goods used in connection with repair and maintenance (item 6)
Other eligible body and paid for with charity funds provided wholly or partly by a charity or from voluntary contributions		
Handicapped person	Items 3 /4: adapting of goods	Goods used in connection with adaptation (item 6)
Charity to make available to handicapped		Repair and maintenance of goods used in adaptation (item 5)
Handicapped person in private residence	Items 16/17: installing a lift	Goods used in connection with installation (item 18)
Charity permanent / temporary residence or day centre for the handicapped		Repair and maintenance of goods used in connection with installation (item 5)
Handicapped person for domestic or personal use	Item 19: alarm systems	Repair and maintenance (item 20)
Charity which makes it available to handicapped as above		Control centre services
Handicapped person in private residence	Items 8/9: constructing ramps	Goods used in connection with (item

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Charity to facilitate entry or movement of handicapped within any building	or widening doorways or passages	13)
Handicapped person in private residence	Items 10/11: providing, extending or adapting a bathroom, washroom or lavatory	
Charity residential home		
Charity in building used principally by charity for charitable purposes	Item 12: providing, extending or adapting a washroom or lavatory	
Handicapped person in receipt of disability living allowance by lessor whose business consists predominantly of provision of motor vehicle for the handicapped	Item 14: letting, on hire, of a new motor vehicle for not less than 3 years.	Is first sale of motor vehicle after end of lease where vehicle let on hire in accordance with item 14 (item 15)

50. Replying to letters from disabled people

50.1 Wording of reply

When you are writing to a disabled person you should think carefully about the wording of your reply. The following points may help:

- avoid the use of jargon;
- explain the way in which the VAT relief applies in plain easy to understand words;
- explain why VAT relief is not available for the particular goods or services;
- enclose a copy of the relevant VAT notice, if necessary;
- refer the disabled person to the relevant section or paragraph in the notice; and
- end the letter with a sentence such as
“I realise that this reply may be disappointing, but I hope that this helps to clarify the position.”

50.2 Suggested paragraphs

Thank you for your letter of (date) enquiring about VAT and (specify product or service).

It may be helpful if I explain that since VAT was introduced in the UK in 1973, successive Governments have recognised that disabled people should not have to bear all of the extra VAT costs which they could incur in meeting their needs. A number of specific reliefs are therefore available to disabled people.

Use (a) to (f) below as appropriate.

- Although the (specify goods) is undoubtedly useful to you, it has been designed for general use, and not specifically for a disabled person. This means that VAT relief is not available.
- The relief does not apply to general purpose equipment which has a wider application, even when supplied for use by someone with a particular disability.
- VAT relief for disabled people applies only where goods are designed specially for use by disabled people. There will, however, always be people whose needs fall outside the scope of the reliefs. It is difficult to fine tune the VAT system to meet the needs of every individual's disability. VAT works mainly on the liability of specific goods and services, rather than the status or particular needs of each purchaser. It is too blunt an instrument to target relief on goods or services which, while useful to someone with a particular disability, also have a wider application.
- On the question of extending the reliefs, the Government receives many

suggestions for further reliefs from tax. Some of these relate to specific goods and services while others relate to the special needs of particular groups of people. All are persuasively argued by reference to their individual merits and circumstances, but it would be very difficult to justify discriminating between the competing causes by granting relief in some cases, but not others. Moreover, to grant relief in all cases would lead to a significant loss of revenue which would only have to be made good from elsewhere.

Consequently there is no relief on (state product)

Where appropriate insert:

- (e) I realise that you will find this reply disappointing, however due to long standing agreements with our European partners, we are unable to extend VAT relief to all items and services which are used by disabled people.
- (f) I realise that this reply may be disappointing, but I hope that this helps to clarify the position.