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Notice 708

Buildings and construction

June 2007

This notice cancels and replaces Notice 708 July 2002 and Information Sheets 07/99, 05/00, 04/01, 05/01 and 03/02. Details of any changes to the previous version can be found in paragraph 1.2 of this notice.

Further help and advice

If you need general advice or more copies of HM Revenue & Customs notices, please ring the **National Advice Service** on **0845 010 9000**. You can call between **8:00am and 8:00pm, Monday to Friday**.

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Other notices on this or related subjects:

48 Extra statutory concessions, 700 The VAT Guide, 700/1 Should I be registered for VAT? 700/9 Transfer of a business as a going concern, 700/45 How to correct errors and make adjustments or claims, 701/1 Charities, 701/7 VAT reliefs for people with disabilities, 701/10 Printed and similar matter, 701/19 Fuel and power, 701/23 Protective equipment, 701/30 Education and vocational training, 706 Partial exemption, 706/2 Capital goods scheme, 708/6 Energy-saving materials, 709/3 Hotels and holiday accommodation, 719 VAT refunds for 'do-it-yourself' builders and converters, 725 Single market, 741 Place of supply of services, 742 Land and property, 742A Opting to tax land and buildings.

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1. Introduction

1.1 What is this notice about?

This notice explains:

- when building work can be zero-rated or reduced-rated at 5%;
- when building materials can be zero-rated or reduced-rated at 5%;
- when the sale, or long lease, in a building is zero-rated;
- when developers are 'blocked' from deducting input tax on goods that are not building materials;
- when a builder or developer needs to have a certificate from his customer;
- when a customer can issue a certificate to a builder or developer;
- what happens if you change the use of a certificated building;
- the special time of supply rules for builders; and
- when, on using your own labour, you must account for a self-supply charge.

1.2 What's changed?

This notice has been rewritten to reflect our current policy and to clarify those areas where previous advice may have been unclear.

The main changes in content are as detailed below.

The section on VAT Liability has been amended to explain how sub-contractors are affected by VAT.

The section on the zero-rating of new buildings has been amended to explain more clearly what an annexe is.

The sections on the conversion of non-residential buildings have been amended to explain that, in particular circumstances, the conversion of a garage can be a non-residential conversion.

The section on building materials has been amended to ensure that only those electrical appliances stipulated in law are shown as building materials.

The section on certificates for qualifying buildings has been amended to explain what we mean by use in the context of 'using a building'.

The section on self billing has been amended to reflect the publication of a specific notice on the subject, Notice 700/62.

1.3 Who should read this notice?

You may find this notice useful if you:

- are a contractor or sub-contractor;
- are a developer;
- need to issue a certificate in order to obtain zero-rated or reduced-rated building work; or
- need to issue a certificate in order to buy, or long lease, a zero-rated building.

This notice may also be useful if you, as the customer or client of a contractor, sub-contractor or developer, wish to satisfy yourself as to the correct liability of the supplies of goods and services being made by them. This is especially so in the case of DIY House Builders and Convertors, who can only recover through the provisions of the DIY House Builders and Convertors VAT Refund Scheme, VAT that has been correctly charged.

Further information about the Scheme can be found in Notice 719 *DIY House Builders and Convertors VAT Refund Scheme*.

1.4 What law covers this notice?

The Value Added Tax Act 1994, section 30 holds that goods and services specified in Schedule 8 to the Act are zero-rated.

Schedule 8, Group 5 (as amended by SI 1995/280, SI 1997/50, SI 2001/2305 and SI 2002/1101) specifies when the construction (and the supply of building materials with those services), conversion of a non-residential building (and the supply of building materials with those services), sale, or long lease of a building is zero-rated.

Schedule 8, Group 6 (as amended by SI 1995/283, SI 1995/1625 (NI 9) and the Planning (Consequential Provisions) (Scotland) Act 1997) specifies when the alteration (and the supply of building materials with those services), sale, or long lease of a protected building is zero-rated.

The Value Added Tax Act 1994, section 29A (as inserted by the Finance Act 2001, section 99(4)) holds that goods and services specified in Schedule 7A to the Act are reduced-rated.

Schedule 7A, Group 6 (as inserted by Finance Act 2001, section 99(5) and amended by SI 2002/1100) specifies when a residential conversion is reduced-rated.

Schedule 7A, Group 7 (as inserted by Finance Act 2001, section 99(5) and amended by SI 2002/1100) specifies when the renovation and alteration of a dwelling is reduced-rated.

The change of use provisions for certificated buildings are in VAT Act 1994, Schedule 10, paragraph 1 (as amended by SI 2002/1102).

The rules that 'block' developers from deducting input tax on goods that are not building materials are found in the VAT (Input Tax) Order 1992 (SI 1992/3222), articles 2 and 6 (as amended by SI 1995/281).

The special time of supply rules for builders are found in the Value Added Tax Regulations 1995 (SI 1995/2518), regulations 89 and 93 (as amended by SI 1997/2887 and SI 1999/1374).

The rules for the self-supply of construction services are found in the Value Added Tax (Self-Supply of Construction Services) Order 1989 (SI 1989/472).

2. VAT liability

2.1 Construction services

The construction of a new building and work to an existing building is normally standard-rated. There are, however, various exceptions to this. Briefly, they are:

Construction Service	Rate of VAT	Further Information
Construction of new qualifying dwellings and communal residential buildings, and certain new buildings used by charities.	0%	section 3
Conversion for a housing association of a non-residential building into a qualifying dwelling or communal residential building.	0%	section 6
Other conversions of premises to a different residential use.	5%	section 7
Renovation or alteration of empty residential premises.	5%	section 8
Approved alterations to listed dwellings and communal residential buildings, and certain listed buildings used by charities.	0%	section 9
Alterations to suit the condition of people with disabilities.	0%	Notice 701/7 <i>VAT reliefs for people with disabilities</i>
Installation of energy saving materials; and grant funded heating system measures and qualifying security goods.	5%	Notice 708/6 <i>Energy-saving materials</i>
Development of residential caravan parks.	0%	section 20
First time gas and electricity connections.	0%	Notice 701/19 <i>Fuel and power</i>
Home improvements on domestic property situated in the Isle of Man (at the time of writing, this reduced rate is due to end on 31 December 2010).	5%	Isle of Man VAT Notice <i>Home improvements</i> available from: Isle of Man Customs and Excise Advice Centre, Custom House, North Quay, Douglas, Isle of Man, IM99 1AG (Phone: 01624 648130) (Website: www.gov.im/treasury/)

2.1.1 Which VAT rate do I charge?

You must charge the lowest rate applicable to your supply. For example, you may be carrying out an approved alteration to an empty listed dwelling. This work is zero-rated as an approved alteration of a listed dwelling rather than reduced-rated as an alteration of an empty dwelling.

You can only zero-rate or reduced-rate your supply to the extent that it is within the relevant rules, with your charge being apportioned as appropriate on a fair and reasonable basis. In some cases, however, you can standard-rate the whole of your supply if you decide not to make an apportionment. This is explained in the relevant sections of this notice.

2.1.2 Retention payments

You apply the same VAT rate to retention payments as that applied to previous payments made under the contract.

2.1.3 Sub-contractors

Sub-contractors are contractors who work to other contractors. They can zero-rate or reduce-rate their supplies according to the building being constructed or worked on, as noted at 2.1 above.

However, there are exceptions. Supplies in respect of certificated buildings (communal residential buildings or buildings used by charities) must always be standard-rated.

2.2 Building materials

Retailers and builders' merchants charge VAT at the standard rate on most items they sell.

Builders, however, charge VAT on 'building materials' that they supply and incorporate in a building (or its site) at the same rate as for their work. So, if their work is zero-rated or reduced-rated, then so are the 'building materials'. However, some items are not 'building materials' and remain standard-rated.

Further information on this can be found in sections 11 and 13.

2.3 The sale or lease of buildings by developers

The sale or lease of a building is zero-rated, standard-rated, or exempt from VAT depending on the circumstances.

This notice explains when the sale or lease of a building is zero-rated. In brief, the following supplies are zero-rated:

Supply	Further information
The first sale of, or long lease in, a new qualifying dwelling or communal residential building, or a new qualifying building used by a charity, by the person constructing it.	section 4
The first sale of, or long lease in, a qualifying dwelling or communal residential building converted from a non-residential building, by the person converting it.	section 5
The first sale of, or long lease in, a substantially reconstructed building by the person reconstructing it.	section 10

Notice 742 *Land and property* explains when the sale or lease of a building is standard-rated or exempt from VAT.

2.3.1 Input tax relating to exempt and taxable supplies

You are entitled to deduct input tax incurred on costs that you use or intend to use in making taxable supplies (including zero-rated supplies).

You cannot normally deduct input tax incurred on costs that relate to your exempt supplies. If your input tax relates to both taxable and exempt supplies, you can normally deduct only the amount of input tax that relates to your taxable supplies. Further information is in Notice 706 *Partial exemption*.

3. Zero-rating the construction of new buildings

3.1 The basic conditions for zero-rating the construction of a new building

3.1.1 Introduction

If you construct a new building you will normally have to charge VAT at the standard rate. You may, however, be able to zero-rate your supply if you are involved in constructing a new:

- eligible dwelling (referred to as a building 'designed as a dwelling' and explained at paragraph 14.2);
- building that will be used solely for a 'relevant residential purpose' – see paragraph 14.6; or
- building that will be used solely for a 'relevant charitable purpose' (for non-business use or as a village hall – see paragraph 14.7).

The remainder of this section explains the detailed conditions that need to be met before you can zero-rate your services.

If you supply and install goods with your services, you will also need to read section 11 to determine the liability of those goods.

3.1.2 The basic conditions

Your services can be zero-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	A zero-rated building has been, is being or will be constructed.	paragraph 3.2 and section 14
2	Your services are made 'in the course of the construction' of that building.	paragraph 3.3
3	Where necessary, you hold a valid certificate.	section 16
4	Your services are not specifically excluded from zero-rating.	paragraph 3.4

Paragraph 3.5 also explains when you may need to apportion your charges.

3.2 Is a zero-rated building being constructed?

3.2.1 When is a zero-rated building constructed?

The following table will help you decide if a zero-rated building is being constructed:

A zero-rated building is constructed when	and it is
it is built from scratch, and, before work starts, any pre-existing building is demolished completely to ground level (cellars, basements and the 'slab' at ground level may be retained) – see also sub-paragraphs 3.2.2 and 3.2.3;	either 'designed as a dwelling or number of dwellings' – see paragraph 14.2,
the new building makes use of no more than a single facade (or a double facade on a corner site) of a pre-existing building, the pre-existing building is demolished completely (other than the retained facade) before work on the new building is started and the facade is retained as an explicit condition or requirement of statutory planning consent – see also sub-paragraphs 3.2.2 and 3.2.3;	or intended for use solely for a 'relevant residential purpose' – see paragraph 14.6,
a new building is constructed against an existing building so that they share a party wall but there is no internal access between them	or intended for use solely for a 'relevant charitable purpose' – see paragraph 14.7.
an existing building is enlarged or extended and the enlargement or extension creates an additional dwelling or dwellings – see sub-paragraph 3.2.4;	'designed as a dwelling or number of dwellings' – see paragraph 14.2.

A zero-rated building is constructed when	and it is
an annexe to an existing building is built – see sub-paragraphs 3.2.5 to 3.2.9;	intended the annexe, or a part of it, be used solely for a ‘relevant charitable purpose’ – see paragraph 14.7.
a garage is built, or a building is converted into a garage;	constructed or converted at the same time as, and intended to be occupied with, a building ‘designed as a dwelling or number of dwellings’ – see paragraph 14.2.
a building is built that is one of a number of buildings constructed at the same time on the same site – see also sub-paragraph 3.2.2;	intended to be used together with those other buildings as a unit solely for a ‘relevant residential purpose’ – see paragraph 14.6.

3.2.2 Examples of when a zero-rated building is not constructed

Common examples of work you cannot zero-rate include the construction of:

- a ‘granny’ annexe which cannot be used, or disposed of, separately from a main house. This is because the conditions of ‘a building designed as a dwelling’ have not been met in full – see paragraph 14.2;
- a detached enclosed swimming pool in the grounds of a new house. This is because the building being constructed is not ‘a building designed as a dwelling’ – see paragraph 14.2; and
- a detached building in the grounds of an existing care home which extends the facilities of the home. This is because the building being constructed will not be used for a relevant residential purpose in its own right – see paragraph 14.6 – and it was not constructed at the same time as the rest of the home.

3.2.3 Demolition and the retention of party walls

In determining whether a building has been demolished, you can ignore the retention of party walls forming part of a neighbouring property that is not being developed.

So, for example, you are ‘constructing a building’ when you ‘infill’ in a row of terraced houses **provided**:

- the pre-existing houses are demolished completely apart from the party walls at the end of the infill site; and
- any retained facade is retained as an explicit condition or requirement of statutory planning consent.

If you are re-developing neighbouring houses in a terrace, the party wall between the houses being re-developed will also need to be demolished before you are ‘constructing a building’ for VAT purposes.

3.2.4 Enlargements and extensions that create additional dwellings

You can zero-rate the enlargement of, or extension to, an existing building **to the extent** that the extension or enlargement contains an additional dwelling **provided**:

- the new dwelling is wholly within the enlargement or extension; and
- the dwelling is ‘designed as a dwelling’ – see paragraph 14.2.

So, for example, a new eligible flat built on top of an existing building can be zero-rated.

If the new dwelling is partly or wholly contained within the existing building, you cannot zero-rate your work under the rules in this section. You may, however, be able to reduced-rate your charge as a ‘changed number of dwellings conversion’ – the rules are explained in section 7. Also, the sale or long lease of the new dwelling may be able to be zero-rated as a converted non-residential building – the rules are explained in section 5.

3.2.5 Relevant charitable purpose annexes

The construction of a building intended for use solely for a relevant charitable purpose is zero-rated, with additions to an existing building normally being standard-rated. But the addition can be zero-rated when **all** the following conditions are met:

Condition	Description	Further information
1	An 'annexe' is constructed, rather than an 'extension' or 'enlargement'.	sub-paragraph 3.2.6
2	The whole annexe, or a part of it, is intended for use solely for a 'relevant charitable purpose'.	sub-paragraph 3.2.7 and paragraph 14.7
3	The annexe is capable of functioning independently from the existing building.	sub-paragraph 3.2.8
4	The annexe and the existing building each has its own independent main access.	sub-paragraph 3.2.9
5	The other conditions of sub-paragraph 3.1.2 are met that is a certificate is issued.	sub-paragraph 3.1.2

The demolition and reconstruction of part of an existing building, such as the wing of a building, cannot be zero-rated as the construction of an annexe.

The demolition and reconstruction of an annexe to an existing building can be zero-rated subject to the above conditions being met.

3.2.6 What is an 'annexe'?

An annexe can be either a structure attached to an existing building or a structure detached from it. A detached structure is treated for VAT purposes as a separate building. The comments in this section only apply to attached structures.

There is no legal definition of 'annexe'. In order to be considered an annexe, a structure must be attached to an existing building but not in such a way so as to be considered an enlargement or extension of that building.

An enlargement or extension would involve making the building bigger so as to provide extra space for the activities already carried out in the existing building. Examples of an enlargement or extension are a classroom or a sports hall added to an existing school building or an additional function room added to an existing village hall.

On the other hand, an annexe would provide extra space for activities distinct from but associated with the activities carried out in the existing building. The annexe and the existing building would form two separate parts of a single building that operate independently of each other. Examples of an annexe are a day hospice added to an existing residential hospice, a church hall added to an existing church or a nursery added to a school building.

3.2.7 Relevant charitable use and part qualifying annexes

When determining the second condition at sub-paragraph 3.2.5 above, the annexe need not be an annexe to a building used solely for a relevant charitable purpose. What is important is that the annexe itself is intended for use solely for a relevant charitable purpose. Paragraph 14.7 explains what relevant charitable purpose means.

Where only a part of the annexe is intended for use solely for a relevant charitable purpose, you can only zero-rate your supply to the extent that it relates to that part. The apportionment rules in section 15 apply in the same way to the construction of relevant charitable annexes as they do to the construction of buildings.

3.2.8 When is an annexe capable of functioning independently?

For zero-rating to apply the **whole** annexe must be capable of functioning independently from the existing building, even if only part of it is used solely for a relevant charitable purpose.

An annexe is capable of functioning independently when the activities in the annexe can be carried on without reliance on the existing building. You can ignore the existence of building services (electricity and water supplies) that are shared with the existing building.

3.2.9 What are the access conditions for annexes?

The fourth condition at sub-paragraph 3.2.5 above is that the annexe and the existing building must each have its own independent **main** access. So, even if the annexe has its own entrance,

- the main access to the annexe must not be through the existing building; and
- the annexe must not create the main access to the existing building.

3.3 Are my services made 'in the course of the construction' of the building?

3.3.1 When are services made 'in the course of the construction' of a building?

Your services are supplied 'in the course of the construction' when you carry out	Further information
work on the building itself (including applying any usual decorative features) prior to completion of the building, or	sub-paragraph 3.3.2 - When is construction 'complete'? sub-paragraph 3.3.3 - Snagging
any other service closely connected to the construction of the building.	sub-paragraph 3.3.4 - Work closely connected to the construction of the building sub-paragraph 3.3.5 - Examples of work unconnected to the construction of a building sub-paragraph 3.3.6 - Services carried out before or after the construction of the building sub-paragraph 3.3.7 - Connecting utilities to existing buildings

3.3.2 When is construction 'complete'?

'Completion' takes place at a given moment in time. That point in time is determined by weighing up the relevant factors of the project, such as:

- when a Certificate of Completion is issued;
- the accordance to approved plans and specifications;
- the scope of the planning consent and variations to it; and
- whether the building is habitable or fit for purpose.

Examples:

- A developer is in the process of constructing a house for sale. The house buyer, however, would like the house to include an attached conservatory and so contracts with a conservatory specialist to supply and install the conservatory prior to him moving in. The developer refuses the conservatory supplier access to the site until after he has finished his work and the house has been conveyed to the house-buyer. In such circumstances, the supply by the conservatory supplier is not work 'in the course of the construction' of the house but work to an existing building and cannot be zero-rated.
- A developer constructs and sells 'shell' loft apartments for fitting out by the homebuyer. When the developer sells the lofts, their construction would not be 'complete'. Future work to fit them out can be zero-rated until such time as they are habitable.
- A non-fee paying school obtains planning permission to construct a building that will be used solely for a relevant charitable purpose. However, due to limited funds, the extent of the work is scaled down and a smaller building is constructed instead. Funds are later obtained to extend and enlarge the building to produce a building of the same capacity as originally planned. In such circumstances, the building would be 'complete' at the end of the first set of works and the later works are standard-rated.

3.3.3 Snagging

Snagging (or the correction of faults) is often carried out after the building has been 'completed'. The work, however, can be zero-rated provided you carried out the initial building work and the snagging forms part of that building contract.

If, however, you are carrying out the work as a separate supply (you may, for example, be contracted to correct work performed by another person) and it is performed after the building has been completed, then the work is to an existing building and cannot be zero-rated under the rules in this section.

3.3.4 Work closely connected to the construction of the building

Subject to sub-paragraph 3.3.6, your work is closely connected to the construction of the building when it either:

(a) allows the construction of the building to take place, such as if you:

- demolish existing buildings and structures as part of a single project to construct a new building or buildings in their place (the granting of a right to remove materials is not the supply of demolition services and is standard-rated);
- provide or improve an access point to a building site to allow deliveries to be made;
- carry out ground works (including the levelling and drainage of land) as part of the process of constructing a new building or buildings in its place;
- provide site clearance or 'builders' clean' services; or
- securing the site,

or

(b) produces works that allow the building to be used, such as works in connection with:

- the means of providing water and power to the building (this can extend to the work required to make the connection to the nearest existing supply);
- the means of providing within the development site access to the building (for example roads, footpaths, parking areas, drives and patios);
- the means of providing security (such as walls, fences and gates – but note that most electrical appliances are always standard-rated. Further information is in paragraph 13.6.); or
- the provision of soft landscaping within the site of a building (this is the application of top-soil, the laying of grass and other soft landscaping) to the extent that it is detailed on a landscaping scheme approved by a planning authority under the terms of a planning consent condition. But not the replacement of trees and shrubs that die, or become damaged or diseased.

It is not possible to produce an exhaustive list of services that are closely connected to the construction of the building, and each case not included above must be looked at on its own merits.

3.3.5 Examples of work unconnected to the construction of a building

Examples of work that cannot be zero-rated include:

- the provision of on-site catering;

- the cleaning of site offices;
- landscaping, including the construction of fish ponds, rockeries and other ornamental works, except to the extent described in sub-paragraph 3.3.4;
- the provision of outdoor leisure facilities for a dwelling such as tennis courts and swimming pools (although the provision of a playground at a school would qualify as it is needed for the school to be used); and
- works outside the site of the building (other than those described in sub-paragraph 3.3.4), including where that work is carried out under a 'planning gain' agreement with a planning authority.

3.3.6 Services carried out before or after the construction of the building

If you carry out services closely connected to the construction of the building either before or after the physical construction of the building takes place, they may only be zero-rated if you can show there is a close connection between when they are performed and when the physical construction of the building takes place. Where there is a time delay, both the reason for, and the length of, any delay must be considered.

Services described in sub-paragraph 3.3.4 may be zero-rated (subject to the conditions in sub-paragraph 3.1.2) where, for example soft landscaping work is carried out after the building has been completed, where those works have been delayed due to seasonal weather conditions.

Services in sub-paragraph 3.3.4 are standard-rated where, for example:

- site investigation or demolition work is carried out prior to the letting of a building contract;
- the services for a building (water, electricity) are installed on land which is to be sold as building land; or
- the work is delayed until after the building is complete owing to an insufficiency of funds.

3.3.7 Connecting utilities to existing buildings

The connection of utilities to an existing building is normally standard-rated as work to an existing building. However, as a concession, the first time connection of gas or electricity supplies can sometimes be zero-rated. Further information can be found in Notice 701/19/95 *Fuel and power*.

3.4 Services excluded from zero-rating

3.4.1 Architects, surveyors, consultants and supervisors

The separate supply of architectural, surveying, consultancy and supervisory services is always standard-rated.

These services are, however, procured in a number of ways:

- **Design and build:** Here the building client engages a contractor to carry out both the design and construction elements of the project. Where the design, workmanship and materials are supplied under a 'design and build' lump sum contract, the VAT liability of the design element will follow that of the building work. This also applies where the part of the sum for the design element is shown separately solely for internal analysis purposes. But separate supplies of design or other similar professional services are always standard-rated.
- **Project management:** Here the building client engages a project manager (usually a construction company) to plan, manage and co-ordinate the whole project including establishing competitive bids for all elements of the work, with the successful contractors being employed directly by the building client. Management fees paid by the building client to the project manager are standard-rated.

Management contracting: This system can take various forms. Normally the building client first appoints a professional design team and engages a management contractor to advise them. If the project goes ahead, the management contractor will act as the main contractor for the work (engaging 'works contractors' to carry out work to him as necessary). His preliminary advisory services are then treated in the same way as his main construction services. If the project does not go ahead, his preliminary advisory services are standard-rated.

3.4.2 Goods on hire

Goods hired on their own are always standard-rated. Examples include the hire of:

- plant and machinery (although plant hired with an operator can be zero-rated where all the other conditions in sub-paragraph 3.1.2 are met);
- scaffolding, formwork or false work (although the service of erecting or dismantling can be zero-rated where all the other conditions in sub-paragraph 3.1.2 are met);
- security fencing; and
- mobile offices.

3.4.3 Goods put to a temporary private use

If goods that belong to your business are put to a temporary private use outside of the business (such as if you use plant and equipment at home or lend them to a friend), then you are making a taxable supply of services – see Notice 700 *The VAT Guide* for more information. Such supplies are not zero-rated under the rules in this section.

3.5 Apportionment

3.5.1 Apportionment for qualifying parts of buildings

If you construct a building that is only in part a zero-rated building (see paragraph 3.2), you can only zero-rate your work to the qualifying parts. For example, if you construct a building containing a shop with a flat above, then only the construction of the flat can be zero-rated. This is explained further at section 15.

3.5.2 Apportionment for mixed site developments

Where a service is supplied in part in relation to the construction of a zero-rated building and in part for other purposes, a fair and reasonable apportionment may be made to determine the extent to which the supply is treated as being zero-rated.

Example:

A road is built through a development site where both zero-rated and standard-rated buildings are being constructed. The road serves all the buildings and so the work is carried out, in part, in relation to the construction of the zero-rated buildings and, in part, in relation to the construction of the standard-rated buildings. The liability of installing the road may be apportioned on a fair and reasonable basis, to reflect the buildings being served.

If you decide not to make an apportionment then none of your work can be zero-rated.

4. Zero-rating the sale of, or long lease in, new buildings

4.1 The basic conditions for zero-rating the sale of, or long lease in, new buildings

4.1.1 Introduction

The sale of, or lease in, a building can be zero-rated, standard-rated, or exempt from VAT depending on the circumstances. If you develop a new:

- eligible dwelling (referred to as a building 'designed as a dwelling' and explained at paragraph 14.2);
- building that will be used solely for a 'relevant residential purpose' – see paragraph 14.6; or
- building that will be used solely for a 'relevant charitable purpose' (that is for a charity's non-business use or as a village hall – see paragraph 14.7);

you may be able to zero-rate your first sale of, or long lease in, the property. The remainder of this section explains the detailed conditions that need to be met before you can zero-rate your supply.

Section 12 explains when a developer cannot recover input tax on goods incorporated in a zero-rated building.

If you cannot zero-rate your supply you should read Notice 742

Land and property to determine if your supply is standard-rated or exempt. Remember, you cannot normally deduct input tax incurred on costs that relate to your exempt supplies. If your input tax relates to both taxable (including zero-rated) and exempt supplies, you can normally deduct only the amount of input tax that relates to your taxable supplies. Further information can be found in Notice 706 *Partial Exemption*.

4.1.2 The basic conditions

Your supply can be zero-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	You sell, or grant a long lease in, a building.	paragraph 4.2
2	If a tenancy or lease, the payment is the premium, or if no premium is due, is the first payment of rent.	paragraph 4.3
3	The building is a zero-rated building that has been, or is being, constructed.	paragraph 3.2
4	The building is not a holiday home.	paragraph 4.4
5	You have 'person constructing' status.	paragraph 4.5
6	The sale or long lease is your first sale of, long lease in, or of or in any part of, the building, dwelling or its site.	paragraph 4.6
7	Where necessary, you hold a valid certificate.	section 16

Paragraph 4.7 also explains when you may need to apportion your charges.

4.2 Am I selling or granting a long lease in the building?

Subject to the conditions at sub-paragraph 4.1.2, you can zero-rate the sale, assignment or surrender of:

- the freehold;
- in relation to England, Wales and Northern Ireland, a lease for a term certain exceeding 21 years;
- in relation to Scotland the estate or interest of the proprietor of the dominium utile; or
- in relation to Scotland, in the case of land not held on feudal tenure, the estate or interest of the owner, or the lessee's interest under a lease for a period of not less than 20 years.

4.2.1 Short leases and partial exemption

If you intend to make a zero-rated sale or long lease in a building (thereby recovering input tax on costs related to the construction and intended sale) but make a short lease in it (say due to a downturn in the property market) before making the zero-rated supply, you will need to make an adjustment to any input tax you have claimed.

The amount of adjustment will depend on your future intentions. If you no longer have an intention to make a zero-rated supply then you will need to repay all the input tax you have claimed in the VAT return when you change your intention. If you have a continuing intention to make a zero-rated supply it is advisable to notify us and we will consider your proposals as to how the adjustment should be made. Supporting evidence of your continued intention may be requested.

Further information on input tax and partial exemption can be found in Notice 706 *Partial exemption*.

4.3 Premiums and rental payments

Where a grant of a major interest is either a long lease or a tenancy agreement, zero rating is restricted to the premium or the first rental payment made in respect of that grant. Subsequent payments are exempt.

4.3.1 Shared ownership schemes

Shared ownership arrangements involve the sharing of equity in a dwelling between, typically, an occupier and a housing association. The occupier purchases a dwelling at a proportion of its value and then pays rent to cover the share in the retained equity. Occupiers have the option of increasing their share of the equity by making additional payments, acquiring a further share related to the current value of the property ('staircasing'). The rent is then reduced accordingly.

The initial payment by the occupier for his share of the equity can be zero-rated.

The subsequent rental payments and any additional 'staircase' payments are not zero-rated but exempt.

4.4 Is the building a holiday home?

The sale or long lease (see paragraph 4.2) of a building (or part of a building) 'designed as a dwelling' cannot be zero-rated if the person buying or leasing the property is:

- not entitled to reside in the accommodation throughout the year (such as in time share accommodation);
- prevented from residing in the accommodation throughout the year by the terms of a covenant, statutory planning consent or similar permission; or
- prevented from using the accommodation as his principal private residence by the terms of a covenant, statutory planning consent or similar permission.

The supply is instead standard-rated. Further information can be found in Notice 709/3 *Hotels and holiday accommodation*.

Building work in the course of the construction of a holiday home that is 'designed as a dwelling' is zero-rated when the conditions at sub-paragraph 3.1.2 are met.

4.5 Do I have 'person constructing' status?

4.5.1 What 'person constructing' means

You are a 'person constructing' a building if, in relation to **that** building, you are, or have at any point in the past:

- acted as a **developer** – you physically constructed, or commissioned another person to physically construct, the building (in whole or in part) on land that you own or have an interest in; or
- acted as a **contractor** or **sub-contractor** - you provided construction services to the developer or another contractor for the construction of the building, sub-contracting work as necessary.

4.5.2 Can more than one person enjoy 'person constructing' status?

Yes. But 'person constructing' status is not transferred when you transfer property. Instead each person must meet the conditions at sub-paragraph 4.5.1.

An example is where a developer takes over and finishes a partly completed building. Both the first and second developer has 'person constructing' status because they have both been involved in physically constructing the building.

Sub-paragraph 4.6.4 explains when the sale of a partly constructed building is zero-rated.

4.5.3 Supplies by members of VAT groups

For VAT purposes, any business carried on by a member of a VAT group is treated as carried on by the representative member. But when determining whether a supply can be zero-rated, 'person constructing' status is only considered from the perspective of the group member who, in reality, makes the supply. This may not be the representative member. For example:

- A VAT group includes a holding company as the representative member and a development company as a member. The development company constructs and sells houses to the public. It has 'person constructing' status and so the sales can be zero-rated.
- A VAT group includes a development company as representative member and an investment company as a member. The development company constructs a block of flats and sells it to the investment company, who in turn leases the flats to the public on long leases. The investment company does not have 'person constructing' status. Even though the representative member has 'person constructing' status the leases cannot be zero-rated and are exempt.

4.5.4 Beneficial interests

Sometimes the beneficial owner of a property must register for VAT instead of the legal owner – further information can be found in

Notice 742 *Land and property*. In such circumstances the beneficial owner must have 'person constructing' status before the sale or long lease of the property can be zero-rated.

4.6 Is my grant of a major interest, the first grant?

4.6.1 Is the sale or long lease, the first sale or long lease?

Subject to the conditions at sub-paragraph 4.1.2, you can only zero-rate your **first** sale of, or long lease (see paragraph 4.2) in, a building (or part of a building). Zero-rating is not affected by:

- the length of time between completion of construction and your sale of, or long lease in, the building;

- any sale of, or long lease in, the building made by other people (even if they also have 'person constructing' status or have made their own zero-rated supply in the building);
- any short leases that may have been made (if you make short leases, you should also read sub-paragraph 4.2.1); or
- any sales of, or long leases in, other parts of the building that you may have made – for example, if you are the developer of a block of flats you can zero-rate your first long lease in each flat.

If you make a second or subsequent long lease in the building (or sell the building after leasing it a long lease) you cannot zero-rate your supply and it would normally be exempt from VAT – see Notice 742 *Land and property* for further information.

4.6.2 How much land can I zero-rate?

If you are making a zero-rated sale of, or long lease in, a building or dwelling you can zero-rate with the sale or long lease:

- the land on which the building stands (the 'foot print'), and
- a reasonable plot of land surrounding it (this will depend on the size, nature and situation of the building and the nature of the surrounding land).

4.6.3 Building land

The sale of bare land is not zero-rated and would be exempt from VAT, unless an option to tax has been taken out. If the land contains civil engineering works (roads, water and electricity supplies) that are less than 3 years old you must charge VAT on those elements. Further information can be found in Notice 742 *Land and property*.

If you sell land to someone and at the same time enter into a separate construction contract with him to build on what will be his land, you are making two supplies and the VAT liability of each supply should be considered independently. The VAT liability of constructing new buildings is explained in section 3.

4.6.4 Partly constructed buildings

Subject to the conditions at sub-paragraph 4.1.2, you can zero-rate the sale of, or long lease in, land that will form the site of a building provided a building is clearly under construction – that is, it has progressed beyond the foundation stage.

If you sell or long lease a plot where construction has not progressed beyond foundation stage, your supply is not zero-rated and you should follow the guidance at sub-paragraph 4.6.32.

4.7 Apportionment

4.7.1 Apportionment for qualifying parts of buildings

If you sell or long lease a building (or part of a building) that is only in part a zero-rated building, then you must apportion your supply. This is explained further at section 15.

4.7.2 Apportionment for mixed sites

If you sell or long lease qualifying buildings along with non-qualifying buildings and/or land that does not form part of the site of the qualifying buildings (see sub-paragraph 4.6.21), you must apportion your supply between them on a fair and reasonable basis.

For example:

- You own building land and commence constructing qualifying houses on identifiable plots. You then sell or long lease the whole site. Your grant in the houses and their plots may be zero-rated but not the remaining building land or the infrastructure (roads, footpaths) leading to the house plots.
- You own building land and develop a number of buildings on it. You sell or long lease the developed site to a charity but they can only certify that one of the buildings will be used solely for a relevant charitable purpose. Only that building, and a reasonable plot of land attributable to it, can be zero-rated.

5. Zero-rating the sale of, or long lease in, non-residential buildings converted to residential use

5.1 The basic conditions for zero-rating the sale of, or long lease in, converted non-residential buildings

5.1.1 Introduction

The sale of, or lease in, a building can be zero-rated, standard-rated, or exempt from VAT depending on the circumstances. If you convert a non-residential building, including a house that has not been lived in for 10 years, into:

- a new eligible dwelling (referred to as a building 'designed as a dwelling' and explained at paragraph 14.2), or
- a building that will be used solely for a 'relevant residential purpose' – see paragraph 14.6;

you may be able to zero-rate your first sale of, or long lease in, the converted property. The remainder of this section explains the detailed conditions that need to be met before you can zero-rate your supply.

Section 12 explains when a developer cannot recover input tax on goods incorporated in a zero-rated building.

If you cannot zero-rate your supply you should read Notice 742 *Land and property* to determine if your supply is standard-rated or exempt. You cannot normally deduct input tax incurred on costs that relate to your exempt supplies. If your input tax relates to both taxable (including zero-rated) and exempt supplies, you can normally deduct only the amount of input tax that relates to your taxable supplies. Further information can be found in Notice 706 *Partial Exemption*.

5.1.2 The basic conditions

Your supply can be zero-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	You sell, or grant a long lease in, a building.	paragraph 5.2
2	The building is the subject of a 'non-residential conversion'.	paragraph 5.3
3	The building is not converted into a holiday home.	paragraph 5.4
4	You have 'person converting' status.	paragraph 5.5
5	The sale or long lease is your first sale of, long lease in, or of or in any part of, the building, dwelling or its site.	paragraph 5.6.1
6	Where necessary, you hold a valid certificate.	section 16

Paragraph 5.7 also explains when you may need to apportion your charges.

5.2 Am I selling or granting a long lease in the building?

The guidance at paragraph 4.2 applies in the same way to this section as it does to section 4.

5.3 Is the building the subject of a 'non-residential conversion'?

A 'non-residential conversion' takes place when	and it is converted into a building
<p>either the building (or part) being converted has never been used as a dwelling or number of dwellings – see sub-paragraph 5.3.1 – or for a 'relevant residential purpose' – see paragraph 14.6, or</p> <p>in the 10 years immediately before – see sub-paragraph 5.3.2 – the sale or long lease the building (or part) has not been used as a dwelling or number of dwellings or for a 'relevant residential purpose';</p>	<p>either 'designed as a dwelling or number of dwellings' – see paragraph 14.2, or</p> <p>intended for use solely for a 'relevant residential purpose' – see paragraph 14.6.</p>

Examples of a 'non-residential conversion' include the conversion of:

- a commercial building (such as an office, warehouse, shop),
- an agricultural building (such as a barn), or
- a redundant school or church,

into a building 'designed as a dwelling or number of dwellings'.

The conversion of a garage, occupied together with a dwelling, into a building designed as a dwelling is **not** a non-residential conversion.

The term 'garage' not only covers buildings designed to store motor vehicle but also buildings such as barns which are used to store motor vehicles.

However if it can be established that the garage was never used to store motor vehicles or has not been used as a garage for a considerable length of time prior to conversion, its conversion into a building designed as a dwelling can be a non-residential conversion.

5.3.1 What 'use as a dwelling' means

A building is 'used as a dwelling' when it has been designed or adapted for use as someone's home and is so used. The living accommodation need not have been self-contained or to modern standards. So, buildings that have been 'used as a dwelling', include:

- public houses and shops where any private living accommodation for the landlord, owner, manager or staff is not self-contained – normally because part of the living accommodation, such as the kitchen, is contained within the commercial areas rather than the private areas;
- bed-sit accommodation; and
- crofts.

If you convert these types of property into a building 'designed as a dwelling or number of dwellings', or intended for use solely for a 'relevant residential purpose', then, unless the 10 year rule applies, your sale of, or long lease in, the property cannot be zero-rated and is exempt from VAT.

5.3.2 How does the 10 year rule work?

You cannot normally zero-rate the sale of, or long lease in, a building that has previously been lived in. Subject to the conditions at sub-paragraph 5.1.2, the exception to this is where, in the 10 years immediately before you **make** your sale or long lease, it has not been lived in and following the work it is 'designed as a dwelling' or intended for use solely for a 'relevant residential purpose'.

If you start work to convert the property into an eligible dwelling or residential building before the 10 year point is reached, you can recover associated VAT costs as input tax provided that you intend to sell or make a long lease in it on or after the 10 year point has been reached. If you change your intention, you may have to repay any input tax that has been claimed. Further information can be found in Notice 706 *Partial exemption*.

5.3.3 How do I know if the building has been unoccupied for 10 years?

You may be required to show that that the building has not been lived in during the 10 years immediately before you start your work. Proof of such can be obtained from Electoral Roll and Council Tax records, utilities companies, Empty Property Officers in local authorities, or any other source that can be considered reliable.

If you hold a letter from an Empty Property Officer certifying that the property has not been lived in for 10 years, you do not need any other evidence. If an Empty Property Officer is unsure about when a property was last lived in he should write with his best estimate. We may then call for other supporting evidence.

5.3.4 What use can I ignore?

When considering when a dwelling was last lived in, you can ignore any:

- illegal occupation by squatters; and
- use that is not residential in nature, such as storage for a business.

If the dwelling has been lived in on an occasional basis (for example, because it was a second home) in the 10 years immediately before you sell or long lease the property you cannot zero-rate your supply.

5.3.5 Amalgamating non-residential parts of a building with other parts

To qualify for zero-rating the conversion must only use non-residential parts of the building. If the conversion uses a mixture of non-residential parts of the building and other parts, then your sale of, or long lease in, the property cannot be zero-rated and is exempt from VAT.

For example:

- You convert a two-storey public house containing bar areas downstairs and private living areas upstairs (and so was in part being 'used as a dwelling' – see sub-paragraph 5.3.1) into a single house. The onward sale or long lease is not zero-rated and you cannot apportion your charge.
- You convert the same property by splitting it vertically into a pair of semi-detached houses, each of which use part of what was the living accommodation. The onward sale or long lease is not zero-rated and you cannot apportion your charge.

5.4 Does the building become a holiday home?

The guidance at paragraph 4.4 applies in the same way to this section as it does to section 4.

5.5 Do I have 'person converting' status?

5.5.1 What 'person converting' means

You are a 'person converting' a building if, in relation to **that** building, you are, or have at any point in the past:

- acted as a **developer** - you physically converted, or commissioned another person to physically convert, a building (in whole or in part) that you own or have an interest in;
- acted as a **contractor** or **sub-contractor** - you provided construction services to the developer or another contractor for the conversion of the building, sub-contracting work as necessary.

5.5.2 Can more than one person enjoy 'person converting' status?

Yes. But 'person converting' status is not transferred when you transfer property. Instead each person must meet the conditions at sub-paragraph 5.5.1.

An example is where a developer takes over and finishes a partly converted building. The first and second developers both have 'person converting' status because they have both been involved in physically converting the building.

Sub-paragraph 5.6.4 explains when the sale of a partly converted building is zero-rated.

5.5.3 Supplies by members of VAT groups

The guidance at sub-paragraph 4.5.3 applies in the same way to this section as it does to section 4.

5.5.4 Beneficial interests

The guidance at sub-paragraph 4.5.4 applies in the same way to this section as it does to section 4.

5.6 Is my grant of a major interest, the first grant?

5.6.1 Is the sale or long lease, the 'first' sale or long lease?

Subject to the conditions at sub-paragraph 5.1.2, you can only zero-rate your **first** sale of, or long lease (see paragraph 4.2) in, a building (or part of a building). Zero-rating is not affected by:

- the length of time between completion of construction and your sale of, or long lease in, the building;
- any sale of, or long lease in, the building made by other people (even if they also have 'person converting' status or have made their own zero-rated supply in the building);
- any short leases that may have been made (if you make short leases, you should also read sub-paragraph 4.2.1); or
- any sales of, or long leases in, other parts of the building that you may have made – for example, if you convert a non-residential building into flats you can zero-rate your first long lease in each flat.

If you make a second or subsequent long lease in the building (or sell the building after leasing it on a long lease) you cannot zero-rate your supply and it would normally be exempt from VAT – see Notice 742 *Land and property* for further information.

5.6.2 How much land can I zero-rate?

The guidance at sub-paragraph 4.6.2 applies in the same way to this section as it does to section 4.

5.6.3 Garages

You can also zero-rate a new garage or a garage converted from a non-residential building provided that:

- the work is carried out at the same time as the conversion of a non-residential building into a building 'designed as a dwelling or number of dwellings', and
- the garage is intended to be occupied with the dwelling or one of the dwellings.

5.6.4 Partly converted buildings

Subject to the conditions at sub-paragraph 5.1.2, you can zero-rate the sale of, or long lease in, a building where a real and meaningful start on the conversion has been made. This means that the work must have been more than securing or maintaining the existing structure.

5.7 Apportionment

5.7.1 Apportionment for converted parts of buildings

You can only zero-rate the sale of, or long lease in, a building (or part of a building) when the new qualifying residential accommodation is created wholly from a non-residential building or part of a building. If you carry out a mixture of qualifying and non-qualifying conversions in a building you can zero-rate the sale of, or long lease in, the qualifying parts and apportion your charge. For example:

- You convert a shop into a flat and refurbish existing flats above the shop that have been lived in within the last 10 years. You can zero-rate the sale of, or long lease in, the converted shop but not the refurbished flats.
- You convert a two storey public house containing private living areas and bar areas into a pair of flats. The living areas have been 'used as a dwelling' (see sub-paragraph 5.3.1) and so the sale of, or long lease in, those parts cannot be zero-rated. The sale of, or long lease in, the converted bar areas can be zero-rated **provided** that the new flat is created solely from the non-residential areas (see also sub-paragraph 5.3.5).

5.7.2 Apportionment for mixed sites

If you sell or long lease a development site containing a mixture of buildings that qualify for zero-rating as the conversion of a non-residential building (or part of a building) and other buildings, you must apportion the liability of your supply between them on a fair and reasonable basis.

6. Zero-rating the conversion of non-residential buildings for relevant housing associations

6.1 The basic conditions for zero-rating conversions of non-residential buildings

6.1.1 Introduction

If you carry out work to an existing building you will normally have to charge VAT at the standard rate. You may, however, be able to zero-rate your supply if you provide conversion services to a relevant housing association and during the course of your work you convert a non-residential building into:

- a new eligible dwelling (referred to as a building 'designed as a dwelling' and explained at paragraph 14.2), or
- a building that will be used solely for a 'relevant residential purpose' – see paragraph 14.6.

The remainder of this section explains the detailed conditions that need to be met before you can zero-rate your services.

If you supply and install goods with your services, you will also need to read section 11 to determine the liability of those goods.

6.1.2 The basic conditions

Your services can be zero-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	Your services are made to a 'relevant housing association'.	paragraph 6.2
2	A building is the subject of a 'non-residential conversion'.	paragraph 6.3
3	Your services are made 'in the course of the conversion' of that building.	paragraph 6.4
4	Where necessary, you hold a valid certificate.	sub-paragraph 6.2.2 and section 16
5	Your services are not specifically excluded from zero-rating.	paragraph 6.5

Paragraph 6.6 also explains when you may need to apportion your charges.

6.2 Are my services made to a 'relevant housing association'?

6.2.1 What is a 'relevant housing association'?

A 'relevant housing association' is a registered:

- social landlord within the meaning of Part I of the Housing Act 1996;
- housing association within the meaning of the Housing Associations Act 1985 (Scottish registered housing associations); or
- housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992 (Northern Irish registered associations).

You must hold evidence to show that your customer is a relevant housing association, such as a copy of their registration certificate.

6.2.2 Certificates

If you are converting the building into a building intended for use solely for a 'relevant residential purpose', you must also hold a certificate confirming the intended use of the building. Further information on certificates can be found in section 16.

6.2.3 Sub-contractors

Sub-contractors services are not made directly to a relevant housing association and are, therefore, standard-rated.

6.3 Is the building the subject of a ‘non-residential conversion’?

A ‘non-residential conversion’ takes place when	and it is converted into a building
<p>either the building (or part) being converted has never been used as a dwelling or number of dwellings – see sub-paragraph 6.3.1 – or for a relevant residential purpose – see paragraph 14.6, or</p> <p>in the 10 years immediately before the start of your work – see sub-paragraphs 6.3.2 to 6.3.4 – the building (or part) has not been used as a dwelling or number of dwellings or for a ‘relevant residential purpose’.</p>	<p>either ‘designed as a dwelling or number of dwellings’) – see paragraph 14.2, or</p> <p>intended for use solely for a ‘relevant residential purpose’ – see paragraph 14.6.</p>

Examples of a ‘non-residential conversion’ include the conversion of:

- a commercial building (such as an office, warehouse, shop),
- an agricultural building (such as a barn), or
- a redundant school or church,

into a building ‘designed as a dwelling or number of dwellings’.

The conversion of a garage, occupied together with a dwelling, into a building designed as a dwelling is **not** a non-residential conversion.

The term ‘garage’ not only covers buildings designed to store motor vehicle but also buildings such as barns which are used to store motor vehicles.

However, if it can be established that the garage was never used to store vehicles or has not been used as a garage for a considerable period of time prior to conversion, its conversion into a building designed as a dwelling can be a non-residential conversion.

6.3.1 What ‘use as a dwelling’ means

A building is ‘used as a dwelling’ when it has been designed or adapted for use as someone’s home and is so used. The living accommodation need not have been self-contained or to modern standards. So, buildings that have been ‘used as a dwelling’, include:

- public houses and shops where any private living accommodation for the landlord, owner, manager or staff is not self-contained – normally because part of the living accommodation, such as the kitchen, is contained within the commercial areas rather than the private areas;
- bed-sit accommodation; and
- crofts.

If you convert these types of property into a building ‘designed as a dwelling or number of dwellings’, or intended for use solely for a ‘relevant residential purpose’, then, unless the 10 year rule applies, your services cannot be zero-rated.

6.3.2 How does the 10 year rule work?

You cannot normally zero-rate work to a property that has previously been lived in. Subject to the conditions at sub-paragraph 6.1.2, the exception to this is where, in the 10 years immediately before you **start** your work, it has not been lived in and following the work it is ‘designed as a dwelling’ or intended for use solely for a ‘relevant residential purpose’.

If the property starts being ‘used as dwelling’ or for a ‘relevant residential purpose’ whilst your work is being carried out, then any work that takes place after that point is not zero-rated.

6.3.3 How do I know if the building has been unoccupied for 10 years?

You may be required to show that that the building has not been lived in during the 10 years immediately before you start your work. Proof of such can be obtained from Electoral Roll and Council Tax records, utilities companies, Empty Property Officers in local authorities, or any other source that can be considered reliable.

If you hold a letter from an Empty Property Officer certifying that the property has not been lived in for 10 years, you do not need any other evidence. If an Empty Property Officer is unsure about when a property was last lived in he should write with his best estimate. We may then call for other supporting evidence.

6.3.4 What use can I ignore?

When considering when a dwelling was last lived in, you can ignore any:

- illegal occupation by squatters; and
- use that is not residential in nature, such as storage for a business.

If the dwelling has been lived in on an occasional basis (for example, because it was a second home) in the 10 years immediately before you start your work you cannot zero-rate your supply.

6.3.5 Amalgamating non-residential parts of a building with other parts

To qualify for zero-rating the conversion must only use non-residential parts of the building. If the conversion uses a mixture of non-residential parts of the building and other parts, then your services cannot be zero-rated.

Example:

- You convert a two-storey public house containing bar areas downstairs and private living areas upstairs (and so was in part being 'used as a dwelling' – see sub-paragraph 6.3.1) into a single house. None of your work is zero-rated and you cannot apportion your charge.
- You convert the same property by splitting it vertically into a pair of semi-detached houses, each of which use part of what was the living accommodation. None of your work is zero-rated and you cannot apportion your charge.

6.3.6 Garages

You can zero-rate work to construct a new garage, or to convert a non-residential building into a garage, provided that:

- the work is carried out at the same time as the conversion of a non-residential building into a building 'designed as a dwelling or number of dwellings', and
- the garage is intended to be occupied with the dwelling or one of the dwellings.

6.4 What services are made 'in the course of the conversion'?

Your services are supplied 'in the course of the conversion' when you:

- physically carry out the conversion; or
- provide any other service closely connected to the conversion – the guidance at sub-paragraphs 3.3.4 to 3.3.7 applies in the same way to this section as it does to section 3.

6.5 Services excluded from zero-rating

6.5.1 Architects, surveyors, consultants and supervisors

The separate supply of architectural, surveying, consultancy and supervisory services is always standard-rated.

Sub-paragraph 3.4.1 explains when a separate standard-rated supply takes place under different types of building contract.

6.5.2 Goods on hire

Goods hired on their own are always standard-rated. Examples of standard-rated hire are given at sub-paragraph 3.4.2.

6.5.3 Goods put to a temporary private use

The guidance at sub-paragraph 3.4.3 applies in the same way to this section as it does to section 3.

6.6 Apportionment

6.6.1 Apportionment for converting parts of buildings

You can only zero-rate your work when the new qualifying residential accommodation is created wholly from a non-residential building or part of a building – see sub-paragraph 6.3.5. If this is not the case you cannot apportion your charge. But, you must apportion your charge on a fair and reasonable basis between qualifying conversion work and other work you do at the same time.

Example:

- You convert a shop into a flat and refurbish existing flats above the shop that have been lived in within the last 10 years. You can zero-rate the work to convert the shop but not the refurbishment of the flats.

6.6.2 Apportionment for mixed sites

Where a service is supplied in part in relation to the conversion of a non-residential building and in part for other purposes, a fair and reasonable apportionment may be made to determine the extent to which the supply is treated as being zero-rated.

Example:

- A road that serves the building being converted and a neighbouring house (for example a barn and a farmhouse) is upgraded as part of the conversion. As the road serves both buildings, the work carried out relates, in part, to the conversion and, in part, for other purposes. The liability of upgrading the road may be apportioned on a fair and reasonable basis.

If you decide not to make an apportionment then none of your work can be zero-rated.

7. Reduced-rating the conversion of premises to a different residential use

7.1 The basic conditions for reduced-rating the conversion of premises to a different residential use

7.1.1 Introduction

If you carry out work to an existing building you will normally have to charge VAT at the standard rate. You may, however, be able to charge VAT at the reduced rate of 5% if you are converting premises into:

- a 'single household dwelling' – see paragraph 14.4;
- a different number of 'single household dwellings' – see paragraph 14.4;
- a 'multiple occupancy dwelling', such as bed-sits – see paragraph 14.5; or
- premises intended for use solely for a 'relevant residential purpose' – see paragraph 14.6.

The remainder of this section explains the detailed conditions that need to be met before you can reduced-rate your services.

If you supply and install goods with your services, you will also need to read section 11 to determine the liability of those goods. If you install goods that are not building materials (such as carpets or fitted bedroom furniture) you must also standard-rate your installation charge. This is explained further at paragraph 7.6.

7.1.2 The basic conditions

Your services can be reduced-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	A qualifying conversion is carried out.	paragraphs 7.2 to 7.5
2	Where necessary, you hold a valid certificate.	section 16
3	Your services are qualifying services.	paragraph 7.6

Paragraph 7.7 also explains when you may need to apportion your charges.

7.2 Summary of qualifying conversions

The following table summarises the types of conversion that are 'qualifying conversions'. For full details you should read the appropriate paragraph.

	Single household dwelling(s) – see paragraph 14.4 – <i>after</i> conversion	Multiple occupancy dwelling(s) – see paragraph 14.5 – <i>after</i> conversion	Relevant residential purpose building – see paragraph 14.6 – <i>after</i> conversion
Single household dwelling(s) <i>before</i> conversion	Not normally a qualifying conversion, but if there is a change in the number of single household dwellings see paragraph 7.3	see paragraph 7.4	see paragraph 7.5
Multiple occupancy dwelling(s) <i>before</i> conversion	see paragraph 7.3	Not a qualifying conversion	see paragraph 7.5
Relevant residential purpose building <i>before</i> conversion	see paragraph 7.3	see paragraph 7.4	Not a qualifying conversion
Any premises not listed above, such as a building that has never been lived in	see paragraph 7.3	see paragraph 7.4	see paragraph 7.5

7.3 Conversions into single household dwellings

A qualifying conversion is carried out when:

the premises being converted is	and after conversion	but not when
a building, or part of a building;	the premises contain a greater or lower number (but not less than one) of 'single household dwellings' – see paragraph 14.4;	the number of 'single household dwellings' in part of the premises is unchanged – see sub-paragraph 7.3.1.

A qualifying conversion includes the conversion of:

- a property that has never been lived in, such as an office block or a barn;
- living accommodation which is not self-contained, such as a pub containing staff accommodation that is not self-contained; and
- any dwelling which has been adapted in its entirety to another use, such as to offices or a dental practice.

It does not include:

- the creation of living accommodation that is not a 'single household dwelling', such as most 'granny' annexes or additional bedrooms at a care home; and
- the renovation or alteration of living accommodation that has been used for other purposes without the premises being adapted, such as a flat above a shop that has been used for storage. If the living accommodation has not been lived in for 3 years or more, the reduced rate explained in section 8 may apply.

7.3.1 What if I am both converting and refurbishing different parts of the building at the same time?

Work that is unrelated to changing the number of dwellings cannot be reduced-rated.

Example 1

A block of flats consists of four floors, each with four flats. A lift is installed and work is carried out throughout the whole building. On the ground, first and second floors the footprint of each flat is changed to take account of the new lift. This results in the internal configuration of each flat being changed. On the third floor three penthouse flats are created from the original four.

Although the overall number of single household dwellings in the building has changed (there has been a reduction by one unit) only the work to convert the third floor will be eligible for the reduced rate because it is only in this part of the building that the number of dwellings has changed. But see also the next example.

Example 2

Taking the above example, if the reduction in the number of flats on the third floor happens by combining two of the original flats together – the other two being refurbished – then the reduced rate will only apply to the work to merge the two flats together.

Example 3

Taking example 1, as well as the changes to the top floor, the number of flats on the ground floor is changed to five smaller units. In this example, the overall number of dwellings in the building has not changed (there are 16 units both before and after the work). However, as parts of the building are examined independently, and because the respective parts of the building meet the conditions at paragraph 7.3, the reduced rate can apply to the work to convert those parts.

7.4 Conversions into multiple occupancy dwellings

A qualifying conversion is carried out when:

the premises being converted is	before conversion the premises do not contain	after conversion those premises only contain	and after the conversion those premises are not intended to be used to any extent for
a building, or part of a building;	any multiple occupancy dwellings – see paragraph 14.5;	1 or more multiple occupancy dwelling;	a relevant residential purpose – see paragraph 14.6.

A qualifying conversion includes the conversion into a multiple occupancy dwelling of:

- a single household dwelling;
- a building used for a relevant residential purpose, such as a care home; and
- a property that has never been lived in.

It does not include, for example, the creation of additional bedrooms at a dwelling consisting of bed-sits.

7.5 Conversions into premises intended for use for a relevant residential purpose

A qualifying conversion is carried out when:

the premises being converted is	before conversion those premises were not last used to any extent for	and after conversion those premises are intended to be used solely for
one or more buildings or parts of buildings	a relevant residential purpose – see paragraph 14.6;	a relevant residential purpose.

A qualifying conversion includes the conversion of:

- a single household dwelling,
- a multiple occupancy dwelling, and
- a property that has never been lived in;

into premises that will be used solely for a relevant residential purpose.

It does not include:

- the remodelling of an existing 'relevant residential purpose' building, such as a care home; and
- any conversion where a new qualifying residential 'home' or 'institution' is not created in its entirety, such as the conversion of outbuildings into additional bedrooms for an existing care home.

7.6 What services can I reduced-rate?

Other than installing goods that are not building materials, you can reduced-rate any works of repair, maintenance (such as redecoration), or improvement (such as the construction of an extension or the installation of double glazing) carried out to the fabric of the building.

You can also reduced-rate works within the immediate site of the premises being converted that are in connection with the:

- means of providing water, power, heat or access;
- means of providing drainage or security; or
- provision of means of waste disposal.

All other services are standard-rated. For example, you must standard-rate:

- the installation of goods that are not building materials, such as carpets and fitted bedroom furniture;
- the erection and dismantling of scaffolding;
- the hire of goods;
- landscaping; and
- the provision of professional services, such as those provided by architects, surveyors, consultants and supervisors.

7.6.1 Garages

You can reduced-rate the:

- conversion of an outbuilding into a garage,
- construction of a new detached garage, and
- the construction of a drive serving the garage;

provided:

- the garage is intended to be occupied with the 'single household dwelling', 'multiple occupation dwelling', or the premises intended for use solely for a 'relevant residential purpose' resulting from the qualifying conversion, and
- the work is carried out at the same time as the qualifying conversion.

7.6.2 Building control and planning consent

If you carry out work that requires statutory planning consent or statutory building control and it has not been granted, then your work is standard-rated.

7.7 Apportionment

You can only reduced-rate those services detailed in paragraph 7.6 when they are supplied in the course of a qualifying conversion. If your services cover a wider range of work then you may apportion your charge on a fair and reasonable basis. If you decide not to make an apportionment then none of your work can be reduced-rated.

8. Reduced-rating the renovation or alteration of empty residential premises

8.1 The basic conditions for reduced-rating the renovation or alteration of empty residential premises

8.1.1 Introduction

If you carry out work to an existing building you will normally have to charge VAT at the standard rate. You may, however, be able to charge VAT at the reduced rate of 5% if you are renovating or altering:

- an eligible dwelling that has not been lived in during the 3 years immediately before your work starts (although there is an exception explained at sub-paragraph 8.3.4); or
- premises intended for use solely for a 'relevant residential purpose' – see paragraph 14.6 – that have not been lived in during the 3 years immediately before you start your work.

The remainder of this section explains the detailed conditions that need to be met before you can reduced-rate your services.

If you supply and install goods with your services, you will also need to read section 11 to determine the liability of those goods. If you install goods that are not building materials (such as carpets or fitted bedroom furniture) you must also standard-rate your installation charge. This is explained further at paragraph 8.4.

8.1.2 The basic conditions

Your services can be reduced-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	You renovate or alter 'qualifying residential premises'.	paragraph 8.2
2	The premises have not been lived in for 3 years or more.	paragraph 8.3
3	Where necessary, you hold a valid certificate.	section 16
4	Your services are 'qualifying services'.	paragraph 8.4

Paragraph 8.5 also explains when you may need to apportion your charges.

8.2 What 'qualifying residential premises' means

'Qualifying residential premises' means:

- a single household dwelling – see paragraph 14.4;
- a multiple occupancy dwelling, such as bed-sits – see paragraph 14.5;
- a building (or part of a building) which, when last lived in, was used for a relevant residential purpose – see paragraph 14.6, and after the renovation or alteration will be used solely for such a purpose – see also sub-paragraph 8.2.1; or
- a building (or part of a building) which, when last lived in, was one of a number of buildings on the same site that were used together as a unit for a relevant residential purpose, and after the renovation or alteration will be used solely for such a purpose – see also sub-paragraph 8.2.1.

8.2.1 Premises to be used for a 'relevant residential purpose'

The premises being renovated or altered must be used **solely** for a 'relevant residential purpose' after the works have been carried out. The recipient of your supply must confirm this by giving you a certificate – see section 16.

Where a building, when last lived in, was one of a number of buildings on the same site used together as a unit for a relevant residential purpose (such as a number of buildings that together formed a care home) you need not renovate or alter all of the buildings for the reduced rate to apply. But those that are renovated or altered must be used together as a unit solely for a relevant residential purpose and a certificate issued.

8.3 Have the premises been lived in recently?

8.3.1 How does the 3 year rule work?

You can only reduced-rate the renovation or alteration if, in the 3 years immediately before you **start** your work, the qualifying residential premises have not been lived in.

If the premises is a building (or part of a building) which, when last lived in, was one of a number of buildings on the same site used together as a unit for a relevant residential purpose, then none of the buildings making up the original unit must have been lived in during the 3 years immediately before your work starts. So you cannot, for example, reduced-rate the renovation or alteration of a dormant building within the grounds of an operational home or institution.

8.3.2 How do I know if the premises have been unoccupied for 3 years?

If you reduced-rated your supply, you may be required to show that that the building has not been lived in during the 3 years immediately before you start your work. Proof of such can be obtained from Electoral Roll and Council Tax records, utilities companies, Empty Property Officers in local authorities, or any other source that can be considered reliable.

If you hold a letter from an Empty Property Officer certifying that the property has not been lived in for 3 years, you do not need any other evidence. If an Empty Property Officer is unsure about when a property was last lived in he should write with his best estimate. We may then call for other supporting evidence.

8.3.3 What use can I ignore?

You can ignore any:

- illegal occupation by squatters; and
- non-residential use, such as storage for a business.

If the dwelling has been lived in on an occasional basis (for example, because it was a second home) in the 3 years immediately before you start your work you cannot reduced-rate your supply.

8.3.4 What if people live in the premises whilst I carry out the work?

If the premises have not been lived in during the 3 years immediately before your work starts, all of your work is reduced-rated even if the premises start to be lived in again whilst you are carrying out your work. The occupier must, however, move in on a day after you start your work.

But if, when your work starts, the premises are being lived in, or have been lived in during the previous 3 years, all of your work is standard-rated.

As an exception, however, if you are renovating or altering a 'single household dwelling' for an owner-occupier you can reduced-rate your services when **all** the following conditions are met:

Condition	Description
1	In the 3 years immediately before the occupier acquired the dwelling it had not been lived in.
2	No renovation or alteration had been carried out in the 3 years before the occupier acquired the dwelling (you can ignore any minor works that were necessary to keep the dwelling dry and secure).
3	Your services are supplied to the occupier – so if you are a sub-contractor you must standard-rate your work.
4	Your services take place within one year of the occupier acquiring the dwelling.

There is no similar exception for the renovation or alteration of multiple occupancy dwellings or buildings intended for use for a relevant residential purpose.

8.4 What services can I reduced-rate?

Other than installing goods that are not building materials, you can reduced-rate any works of repair, maintenance (such as redecoration), or improvement (such as the construction of an extension or the installation of double glazing) carried out to the fabric of the dwelling.

You can also reduced-rate works within the immediate site of the dwelling that are in connection with the:

- means of providing water, power, heat or access;
- means of providing drainage or security; or
- provision of means of waste disposal.

All other services are standard-rated. For example, you must standard-rate:

- the installation of goods that are not building materials, such as carpets or fitted bedroom furniture;
- the erection and dismantling of scaffolding;
- the hire of goods;
- landscaping; and
- the provision of professional services, such as those provided by architects, surveyors, consultants and supervisors.

8.4.1 Garages

If premises consisting of a single household dwelling, multiple occupancy dwelling, or building used for a relevant residential purpose are renovated or altered at the reduced-rate, you can also reduced-rate the:

- renovation of a garage,
- construction of a garage, or
- conversion of a building into a garage;

provided:

- the work is carried out at the same time as the renovation or alteration of the premises concerned, and
- the garage is intended to be occupied with the renovated or altered premises.

8.4.2 Building control and planning consent

If you carry out work that requires statutory planning consent or statutory building control and it has not been granted, then your work is standard-rated.

8.5 Apportionment

You can only reduced-rate those services detailed in paragraph 8.4 when they are supplied in the course of a qualifying renovation or alteration. If your services cover a wider range of work then you may apportion your charge on a fair and reasonable basis. If you decide not to make an apportionment then none of your work can be reduced-rated.

9. Zero-rating approved alterations to protected buildings

9.1 The basic conditions for zero-rating approved alterations to a protected building

9.1.1 Introduction

If you carry out work to an existing building you will normally have to charge VAT at the standard rate. You may, however, be able to zero-rate your supplies if you are involved in altering a listed building or scheduled monument which will:

- remain as or become an eligible dwelling (referred to as a building ‘designed to remain as or become a dwelling’ and explained at paragraph 14.3);
- be used solely for a ‘relevant residential purpose’ – see paragraph 14.6; or
- be used solely for a ‘relevant charitable purpose’ (for a charity’s non-business use or as a village hall – see paragraph 14.7).

The remainder of this section explains the detailed conditions that need to be met before you can zero-rate your services.

If you supply and install goods with your services, you will also need to read section 11 to determine the liability of those goods.

9.1.2 The basic conditions

Your services can be zero-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	Work is carried out to a ‘protected’ building.	paragraph 9.2
2	The work is an ‘alteration’ of a protected building and is not work of ‘repair or maintenance’.	paragraph 9.3
3	The alteration is ‘approved’.	paragraph 9.4
4	Your services are made ‘in the course of the approved alteration’ of that building.	paragraph 9.5
5	Where necessary, you hold a valid certificate.	section 16
6	Your services are not specifically excluded from zero-rating.	paragraphs 9.3 and 9.6

Paragraph 9.7 also explains when you may need to apportion your charges.

9.2 Is the work to a ‘protected’ building?

9.2.1 What is a ‘protected’ building?

A building is a ‘protected’ building when the following conditions are met:

A protected building is a building that is	and is
designed to remain as or become a dwelling or number of dwellings – see paragraph 14.3, intended for use solely for a relevant residential purpose – see paragraph 14.6, or intended for use solely for a relevant charitable purpose – see paragraph 14.7;	either a listed building – see subparagraphs 9.2.2 and 9.2.3, or a scheduled monument – see subparagraph 9.2.4.

9.2.2 What is a listed building?

A listed building is one included in a statutory list of buildings of special architectural or historic interest compiled by the Secretary of State for National Heritage in England and by the Secretaries of State for Scotland, Wales and Northern Ireland.

In England and Wales there are three categories of listed building, Grade I, Grade II*, and Grade II. In Scotland the equivalent categories are Grade A, Grade B and Grade C(S). There is no statutory grading of listed buildings in Northern Ireland. However, the Environment and Heritage Service: Built Heritage (an agency within the Department of Environment for Northern Ireland) operates an internal grading system for administrative purposes.

Buildings within the curtilage of a listed building such as outhouses or garages which, although not fixed to the building, form part of the land and have done so since before 1 July 1948 (for example, an outhouse) are treated for planning purposes as part of the listed building.

Unlisted buildings in conservation areas, or buildings included in a local authority's non-statutory list of buildings of local interest, which used to be known as Grade III buildings, are not 'protected' buildings for VAT purposes.

9.2.3 Garages and other curtilage buildings

As noted above at 9.2.2, garages and other curtilage buildings can be treated for planning purposes as part of the listed building.

For VAT purposes, however, any approved alteration carried out to such buildings can only be zero-rated if the building being altered falls within one of the descriptions in sub-paragraph 9.2.1. For example, the conversion of an outhouse in the curtilage of a dwelling to a swimming pool cannot be zero-rated as that building is not 'designed to remain as or become a dwelling' in its own right.

Approved alterations to garages in the curtilage of a building 'designed to remain as or become a dwelling' can be zero-rated provided that the garage is occupied together with the dwelling; and was either constructed at the same time as the dwelling or, where the dwelling has been substantially reconstructed, at the same time as that reconstruction.

A garage need not be a building designed to store motor vehicles: the term can also apply to a building adapted to store motor vehicles such as a barn.

9.2.4 What is a scheduled monument?

A scheduled monument is one included in a statutory schedule of monuments of national importance as defined in the Ancient Monuments and Archaeological Areas Act 1979 or the Historic Monuments and Archaeological Object (Northern Ireland) Order 1995.

You can only zero-rate an approved alteration to a scheduled monument if it is a building that meets the tests at sub-paragraphs 9.1.2 and 9.2.1.

9.3 Is the protected building being 'altered'?

A building is altered when its fabric, such as its walls, roof, internal surfaces, floors, stairs, windows, doors, plumbing and wiring is changed in a meaningful way.

Alterations carried out for the purposes of repair or maintenance, or any incidental alteration resulting from works of repair or Maintenance, are always standard-rated, even if the work has been included in the listed building or scheduled monument consent.

9.3.1 What are works of repair or maintenance?

Works of repair or maintenance are those tasks designed to minimise, for as long as possible, the need for, and future scale and cost of, further attention to the fabric of the building. Changes to the physical features of the building are not zero-rated alterations if, in the exercise of proper repair and maintenance of the building, they are either:

- trifling or insignificant, or
- dictated by the nature and use of modern building materials.

Similarly, if the amount of work or cost is significant, that does not make the work a zero-rated alteration if the inherent character of the work is repair and maintenance.

9.3.2 Examples of repair or maintenance work and alterations

The following are examples of repair or maintenance work and alterations. Remember you can only zero-rate alterations when **all** of the conditions at sub-paragraph 9.1.2 are met.

Work	VAT treatment
Extensions	Alteration
Opening/closing doorways	Alteration
Replacement of rotten wooden windows with UPVC double glazing	Repair or maintenance
Replacement of UPVC double glazing with copies of original wooden windows for aesthetic reasons	Alteration
Installing a window where one did not exist before	Alteration
Re-felt and batten roof	Repair or maintenance
Replacement of a flat roof with a pitched roof	Alteration
Replacement of straw thatch with reeds; and changes to the ridge detail of a thatched roof	Repair or maintenance when carried out as part of the normal renewal programme.
Damp proofing	Repair or maintenance
Making good	Follows the liability of the main work
Re-decorating	Repair or maintenance
Re-pointing	Repair or maintenance
Re-wiring	Repair or maintenance
Extending wiring and plumbing systems	Alteration
Replacing boilers at the same time as extending plumbing systems	Alteration when replaced as a direct consequence of deciding to extend the plumbing system. But repair or maintenance when the decision to extend the plumbing system is made following the need to replace a boiler.
Flood lighting	Alteration when installed on the building. But neither an alteration nor repair or maintenance (and therefore standard-rated) when installed within the grounds of a building – there is no work to the fabric of the building.

9.3.3 Repairs to listed places of worship

The Department of Culture Media and Sport has introduced a grant scheme for repairs to listed places of worship. The scheme, which is expected to last until 2011, returns in grant aid the difference in costs between the VAT paid and VAT at 0% on eligible repairs. Further information on the scheme can be obtained from Listed Places of Worship Grant Scheme, PO Box 609, Newport, NP10 8QD (Phone: 0845 601 5945) (Website: www.lpwscheme.org.uk).

9.3.4 Constructing and altering curtilage structures

Sub-paragraph 9.2.3 explains that approved alterations to existing curtilage structures only qualify for zero-rating when the structure is a protected building.

The construction of a building or structure in the grounds of a protected building is, however, never an alteration of a protected building and is not zero-rated under the rules in this section. The construction of, and the alteration to fences, walls and railings (both freestanding and attached to the protected building) and other curtilage structures, such as patios and terraces, are standard-rated.

Zero-rating may, however, be available under the rules in section 3.

9.4 Is the alteration 'approved'?

In most cases an approved alteration is an alteration for which listed building consent is both needed and has been obtained from the appropriate planning authority (or, in some circumstances, the Secretary of State) prior to the commencement of the work. In each case you will need to find out from your customer (or their architect or surveyor) to what extent the work you have been contracted to do has both required and received listed building consent.

If you are working on a church, a building on Crown or Duchy land, or a scheduled monument, you should read sub-paragraphs 9.4.4, 9.4.5 and 9.4.6 respectively.

9.4.1 Listed building consent

Listed building consent is not the same as planning permission. In general terms, listed building consent is needed for work on a listed building which would affect its character as a building of special architectural or historic interest. The construction of an extension, or alterations following partial demolition, would certainly require consent but it is not possible to generalise about less radical work especially as regards internal alterations.

9.4.2 Unauthorised work

If you carry out work to a listed building without obtaining any required listed building consent, you are committing an offence.

The planning authority cannot issue retrospective listed building consent for the work. They may, however, permit you to retain the unauthorised works. Such works are not approved alterations (because consent has not been granted at the time the work is carried out) and are standard-rated.

9.4.3 Listed building enforcement notices

Where works to a listed building are carried out without listed building consent being obtained or which do not comply with a condition in the consent, the local planning authority may issue a 'listed building enforcement notice' for the carrying out of further work.

An alteration, which is not work of repair or maintenance – see paragraph 9.3, to the fabric of the building under the terms of an enforcement notice is an approved alteration.

9.4.4 Places of worship and ecclesiastical exemption

Many listed places of worship are not subject to the usual controls over listed buildings. This is known as ecclesiastical exemption and it exempts a place of worship from listed building and conservation area control. It does not exempt the place of worship from being charged VAT on those works.

In England and Wales six Christian denominations have ecclesiastical exemption. They are:

- the Church of England;
- the Church in Wales;
- the Roman Catholic Church;
- the Methodist Church;
- the Baptist Union of Great Britain and the Baptist Union of Wales; and
- the United Reformed Church.

In Scotland and Northern Ireland all listed (or their equivalent in Northern Ireland) places of worship have ecclesiastical exemption.

The churches, however, operate their own controls that follow a Government Code of Practice. For example, the Church of England has a system called faculty jurisdiction under which the Diocesan Chancellor decides the faculty application taking advice from the Diocesan Advisory Committee.

Any alteration, which is not work of repair or maintenance – see paragraph 9.3 - to the fabric of a listed place of worship that has ecclesiastical exemption is an approved alteration. You should keep a copy of the 'faculty' (or other documentation) in your records.

Ecclesiastical exemption does not extend to dwellings occupied by ministers of religion and the normal listed building consent procedure applies.

9.4.5 'Crown' and 'Duchy' interest buildings

Listed building consent may not be needed for alterations to buildings on Crown or Duchy land even though it would be needed for similar alterations to listed buildings elsewhere.

In this case, an alteration to the fabric of the building which would otherwise have required consent and which is not work of repair or maintenance – see paragraph 9.3, is an approved alteration.

9.4.6 Scheduled monuments

All work affecting scheduled monuments require scheduled monument consent from the Secretary of State. Approved alterations are those works of alteration for which consent has been obtained.

It is possible for a building to be both scheduled and listed. If so, only scheduled monument procedures apply and it should be treated as a scheduled monument for VAT purposes.

9.5 Are my services made ‘in the course of an approved alteration’ of a protected building?

Your services are supplied ‘in the course of an approved alteration’ of a protected building when you:

- physically carry out the approved alteration; or
- provide any other service closely connected to the alteration – the guidance at sub-paragraphs 3.3.4 to 3.3.7 applies in the same way to this section as it does to section 3.

So, even if your work did not require approval – see paragraph 9.4 – it can still be zero-rated provided it is closely connected to an approved alteration. Examples include:

- preparation work for an approved alteration; or
- the carrying out of remedial work resulting from an approved alteration.

9.6 Services excluded from zero-rating

9.6.1 Architects, surveyors, consultants and supervisors

The separate supply of architectural, surveying, consultancy and supervisory services is always standard-rated.

Sub-paragraph 3.4.1 explains when a separate standard-rated supply takes place under different types of building contract.

9.6.2 Goods on hire

Goods hired on their own are always standard-rated. Examples of standard-rated hire are given at sub-paragraph 3.4.2.

9.6.3 Goods put to a temporary private use

The guidance at sub-paragraph 3.4.3 applies in the same way to this section as it does to section 3.

9.7 Apportionment

9.7.1 Apportionment for repair and maintenance

Works of repair or maintenance are standard-rated. If you are supplying both zero-rated and standard-rated work you may apportion your supply on a fair and reasonable basis to reflect the differing liabilities.

If you decide not to make an apportionment then none of your work can be zero-rated.

9.7.2 Apportionment for qualifying parts of buildings

You cannot zero-rate work to a whole building where only part of it is a ‘protected’ building. You can, however, zero-rate the work to the qualifying parts. For example, if you carry out alterations to a listed building used by a charity, it may be that only part of the building will be used solely for a ‘relevant charitable purpose’. If so, only the approved alterations to that part of the building can be zero-rated.

9.7.3 Apportionment for mixed site developments

Where a service (such as the carrying out of civil engineering work) is supplied in part in relation to an approved alteration and in part for other purposes, a fair and reasonable apportionment may be made to determine the extent to which the supply is treated as being zero-rated.

If you decide not to make an apportionment then none of your work can be zero-rated.

10. Zero-rating the sale of, or long lease in, substantially reconstructed protected buildings

10.1 The basic conditions for zero-rating the sale of, or long lease in, substantially reconstructed protected buildings

10.1.1 Introduction

The sale of, or lease in, a building can be zero-rated, standard-rated, or exempt from VAT depending on the circumstances. If you substantially reconstruct a listed building that after the reconstruction:

- is designed to remain as or become an eligible dwelling (referred to as a building 'designed to remain as or become a dwelling' and explained at paragraph 14.3),
- will be used solely for a 'relevant residential purpose' – see paragraph 14.6, or
- will be used solely for a 'relevant charitable purpose' (for a charity's non-business use or as a village hall – see paragraph 14.7);

you may be able to zero-rate your first sale of, or long lease in, the property.

The remainder of this section explains the detailed conditions that need to be met before you can zero-rate your supply.

Section 12 explains when a developer cannot recover input tax on goods incorporated in a zero-rated building.

If you cannot zero-rate your supply you should read Notice 742 *Land and property* to determine if your supply is standard-rated or exempt. Remember, you cannot normally deduct input tax incurred on costs that relate to your exempt supplies. If your input tax relates to both taxable (including zero-rated) and exempt supplies, you can normally deduct only the amount of input tax that relates to your taxable supplies. Further information can be found in Notice 706 *Partial Exemption*.

10.1.2 The basic conditions

Your supply can be zero-rated when **all** the following conditions are met:

Condition	Description	Further information
1	Work is carried out to a 'protected' building.	paragraph 10.2
2	The protected building is 'substantially reconstructed'.	paragraph 10.3
3	You sell, or grant a long lease in, the building.	paragraph 10.4
4	The building is not substantially reconstructed into a holiday home.	paragraph 10.5
5	You substantially reconstruct the building.	paragraph 10.6
6	The sale or long lease is your first sale of, long lease in, or of or in any part of, the building, dwelling or its site.	paragraph 10.7
7	Where necessary you hold a valid certificate.	section 16

Paragraph 10.8 also explains when you may need to apportion your charges.

10.2 Is the work carried out to a 'protected' building?

A building is a 'protected' building when the following conditions are met:

A protected building is a building that is	and is
designed to remain as or become a dwelling or number of dwellings – see paragraph 14.3, intended for use solely for a relevant residential purpose – see paragraph 14.6, or intended for use solely for a relevant charitable purpose – see paragraph 14.7)	either a listed building – see sub-paragraphs 9.2.2 and 9.2.3, or a scheduled monument – see sub-paragraph 9.2.4.

10.3 Is the protected building being 'substantially reconstructed'?

A protected building is substantially reconstructed when:

- reconstruction takes place that is major work to the building's fabric, including the replacement of much of the internal or external structure; and

either:

- at least 60% of the total cost of the reconstruction (including materials and other items to carry out the work but excluding the services of an architect, surveyor or other person acting as consultant or in a supervisory capacity) could be zero-rated as 'approved alterations' – see section 9; or
- the reconstruction involves 'gutting' the building – that is no more of the original building is retained than an external wall or walls, or external walls together with other external features of architectural or historic interest.

10.3.1 Extensions

A protected building is not 'substantially reconstructed' where the only major alteration is the addition of an extension.

However, work to extend a protected building could be zero-rated as an approved alteration if supplied by a builder. This means that if you carry out major works to reconstruct a building, then the construction of an extension can count towards your 60% 'substantial reconstruction' calculation.

10.3.2 Part-qualifying buildings

You may reconstruct a building where only part of it will be used for a qualifying purpose. When determining if at least 60% of the work could be zero-rated as 'approved alterations', all of the work to the building should be considered. But only those alterations to the qualifying parts can count towards the zero-rated element.

10.4 Am I selling or granting a long lease in the building?

The guidance at paragraph 4.2 applies in the same way to this section as it does to section 4.

10.5 Does the building become a holiday home?

The guidance at paragraph 4.4 applies in the same way to this section as it does to section 4.

10.6 Do I have 'person substantially reconstructing' status?

10.6.1 What does 'person substantially reconstructing' mean?

You are a 'person substantially reconstructing' a protected building if, in relation to **that** building, you are, or have at any point in the past:

- acted as a **developer** - you physically substantially reconstructed a protected building, or commissioned another person to physically substantially reconstruct the building, that you own or have an interest in; or
- acted as a **contractor** or **sub-contractor** – that is you provided reconstruction services to the developer or another contractor for the substantial reconstruction of the building, sub-contracting work as necessary.

10.6.2 Is 'person substantially reconstructing' status transferable?

No. Each person must meet the conditions at sub-paragraph 10.6.1 above.

10.6.3 Supplies by members of VAT groups

The guidance at sub-paragraph 4.5.3 applies in the same way to this section as it does to section 4.

10.6.4 Beneficial interests

The guidance at sub-paragraph 4.5.4 applies in the same way to this section as it does to section 4.

10.7 Is my grant of a major interest, the first grant?

10.7.1 Is the sale or long lease, the 'first' sale or long lease?

Subject to the conditions at sub-paragraph 10.1.2, you can only zero-rate your **first** sale of, or long lease (see paragraph 4.2) in, a building (or part of a building). Zero-rating is not affected by:

- the length of time between completion of the reconstruction and your sale of, or long lease in, the building;
- any sale of, or long lease in, the building made by other people (even if they also have 'person reconstructing' status or have made their own zero-rated supply in the building);
- any short leases that may have been made (**note**, if you make short leases, you should also read sub-paragraph 4.2.1); or
- any sales of, or long leases in, other parts of the building that you may have made – for example, if you reconstruct the building into flats you can zero-rate your first long lease in each flat.

If you make a second or subsequent long lease in the building (or sell the building after leasing it on a long lease) you cannot zero-rate your supply and it would normally be exempt from VAT – see Notice 742 *Land and property* for further information.

10.7.2 How much land can I zero-rate?

The guidance at sub-paragraph 4.6.2 applies in the same way to this section as it does to section 4.

10.7.3 Garages

You can also zero-rate a garage constructed or converted from a non-residential building provided that:

- the work is carried out at the same time as the substantial reconstruction of a building 'designed to remain as or become a dwelling or number of dwellings', and
- the garage is intended to be occupied with the dwelling or one of the dwellings.

10.8 Apportionment

10.8.1 Apportionment for qualifying parts of buildings

If you sell or long lease a reconstructed building and only part of it will be used for a qualifying purpose, then you must apportion your charge. This is explained further at section 15.

10.8.2 Apportionment for mixed sites

If you sell or long lease a development site containing buildings that qualify for zero-rating as substantially reconstructed protected buildings (or parts of buildings) and other buildings, you must apportion the liability of your charge between them on a fair and reasonable basis.

11. Supplies of building materials by contractors

11.1 Goods supplied 'over the counter'

If you are a retailer, a builder's merchant, or supplying goods from stock, you must standard-rate most goods that you sell. There are some exceptions such as the supply of protective boots and helmets for industrial use (see Notice 701/23 *Protective equipment*) and printed manuals (see Notice 701/10 *Printed and similar matter*). Notice 700 *The VAT Guide* provides an overview of those goods that can be supplied at the zero or reduced rate.

The VAT treatment of goods supplied in connection with certain building services supplied to the disabled or to charities serving the needs of such people is explained in Notice 701/7 *VAT reliefs for people with disabilities*.

11.2 Goods 'incorporated' by a builder

If you are a builder, the rate of VAT you charge for your work normally determines the rate of VAT you charge on any goods you 'incorporate' in the building (or its site) – see paragraph 13.3 – whilst carrying out that work. So, if your work is zero-rated or reduced-rated, then so are the goods. **But** you must always standard-rate goods that are not 'building materials' – see paragraph 13.2.

In summary:

Are the goods 'building materials'? (see paragraph 13.2)	If the liability of your service of incorporating the goods in the building is	then the liability of the goods is
Yes	zero-rated	zero-rated
Yes	reduced-rated	reduced-rated
Yes	standard-rated	standard-rated
No	zero-rated	standard-rated
No	standard-rated	standard-rated

You cannot reduced-rate the service of incorporating goods that are not 'building materials' in a building (or its site). Instead you must standard-rate both elements of your charge.

11.3 Input tax

If you are a contractor, you can deduct input tax on both goods that are 'building materials' and goods that are not 'building materials' provided they relate to taxable (included zero-rated) supplies you make.

12. Developers: Building materials and other goods

12.1 What is the liability of goods I sell to the purchaser of a zero-rated property?

First, you will need to know if the goods are 'incorporated' in the building (or its site). This is explained at paragraph 13.3.

Goods that are incorporated in a zero-rated building (or part of a building) are zero-rated as part of your zero-rated supply of the building. But you may be 'blocked' from reclaiming input tax. This is explained further at paragraph 12.2 below.

Goods that are not incorporated in the building, such as loose furniture, are taxed at their normal rate. You are not 'blocked' from reclaiming input tax.

12.2 When am I 'blocked' from reclaiming input tax?

You can normally deduct input tax on costs that you use, or intend to use, in making taxable (including zero-rated) supplies. But if you intend to make a zero-rated sale or long lease in a building, you cannot deduct input tax on goods that:

- are 'incorporated' in the building (or its site) – see paragraph 13.3; and
- would not be zero-rated to you if a VAT registered builder were to construct that building from scratch for you – see paragraph 11.2.

Typically, this means that you cannot reclaim input tax on items such as carpets, most fitted furniture, and most 'incorporated' gas and electrical appliances.

You are not blocked from deducting input tax on:

- goods 'incorporated' in the building that would be zero-rated to you if a VAT registered builder were to construct that building from scratch for you – see paragraph 11.2;
- goods that are not 'incorporated' in the building (or its site); and
- 'incorporation' services that have been correctly charged with VAT.

12.3 Show-houses

On new housing developments one or more of the houses are often used temporarily for promotion purposes as show-houses. But the ultimate intention of the developer is normally to make a zero-rated sale or long lease in them.

Here you are 'blocked' from deducting input tax on goods that are not 'building materials' in the same way as for other houses.

12.4 Removing and disposing of goods on which input tax has been blocked

If you remove the goods from a property to which 'blocking' applies and sell them independently (for example, the carpet may need replacing or your customer may prefer a different model appliance), you are still 'blocked' from deducting input tax on both the original item and any replacement. Your disposal of the original item is exempt from VAT.

13. The VAT meaning of 'building materials'

13.1 Why is the concept of 'building materials' important?

If you are a **contractor** supplying zero-rated or reduced-rated services described in this notice, the 'building materials' you supply with those services and 'incorporate' in the building (or its site) will also be zero-rated or reduced-rated. Other articles are normally standard-rated – see section 11.

If you are a **developer**, you may be 'blocked' from deducting input tax on goods that cannot be zero-rated to you. There are also other implications for supplies you may make – see section 12.

13.2 What are 'building materials'?

For VAT purposes, 'building materials' are articles that meet **all** of the following conditions:

Condition	Description	Further information
1	The articles are 'incorporated' in the building (or its site).	paragraph 13.3
2	The articles are 'ordinarily' incorporated by builders in that type of building.	paragraph 13.4
3	Other than kitchen furniture, the articles are not finished or prefabricated furniture, or materials for the construction of fitted furniture.	paragraph 13.5
4	With certain exceptions, the articles are not electrical or gas appliances.	paragraph 13.6
5	The articles are not carpets or carpeting material.	paragraph 13.7

13.3 What 'incorporated' means

An article is 'incorporated' in a building (or its site) when it is fixed in such a way that its fixing or removal would either:

- require the use of tools; or
- result in either the need for remedial work to the fabric of the building (or its site), or substantial damage to the goods themselves.

Examples of articles 'incorporated' in a building (or its site) include:

- built-in and fitted furniture (only built-in or fitted kitchen furniture are 'building materials' – see paragraph 13.5);
- built-in, wired-in or plumbed-in appliances such as boilers or wired-in storage heaters (only certain gas and electrical appliances are 'building materials', but not items such as hobs and ovens – see paragraph 13.6);
- flooring (carpets are not 'building materials' – see paragraph 13.7); and
- trees and plants. (The service of incorporating trees and plants in the site of a building is only zero-rated in certain circumstances – see sub-paragraph 3.3.5. It is never reduced-rated.)

Examples of goods that are not 'incorporated' in a building (or its site) include free-standing:

- appliances that are merely plugged in; and
- furniture such as sofas, tables and chairs, and so on.

13.4 What 'ordinarily' means

An article is 'ordinarily' incorporated in a building (or its site) when, in the ordinary course of events, it would normally be incorporated in a building of that generic type, such as a dwelling, church, or school. Generic types of building are not split into sub-categories. So, no distinction is drawn between large detached houses and small terraced houses.

The same approach is taken when determining if the goods themselves are the norm for that type of building. For example, a tap would be regarded as being 'ordinarily' incorporated whether it is chromium or gold-plated.

Examples of articles 'ordinarily' incorporated in different types of building can be found at paragraph 13.8.

The range of items 'ordinarily' incorporated in a building is likely to change over time in line with trends and consumer expectations.

13.5 Furniture

13.5.1 What articles are furniture and count as building materials?

Finished or prefabricated kitchen furniture and materials for the construction of fitted kitchen furniture are building materials for VAT purposes when ordinarily incorporated in a building.

13.5.2 What articles are not furniture but are building materials?

Examples of articles that are not furniture and are building materials for VAT purposes, include:

- (a) basic storage facilities formed by becoming part of the fabric of the building, such as airing cupboards and under stair storage cupboards;
- (b) items that provide storage capacity as an incidental result of their primary function, such as shelves formed as a result of constructing simple box work over pipes, and basin supports which contain a simple cupboard beneath; and
- (c) basic wardrobes installed on their own with **all** the following characteristics:
 - The wardrobe encloses a space bordered by the walls, ceiling and floor. But units whose design includes, for example, an element to bridge over a bed or create a dressing table are furniture and are not building materials.
 - The side and back use three walls of the room (such as across the end of a wall), or two walls and a stub wall. But wardrobes installed in the corner of a room where one side is a closing end panel are furniture and are not building materials.
 - On opening the wardrobe you should see the walls of the building. These would normally be either bare plaster or painted plaster. Wardrobes that contain internal panelling, typically as part of a modular or carcass system, are furniture and are not building materials.

The wardrobe should feature no more than a single shelf running the full length of the wardrobe, a rail for hanging clothes and a closing door or doors. Wardrobes with internal divisions, drawers, shoe racks or other features are furniture and are not building materials.

13.5.3 What articles are furniture but are not building materials?

All other finished or prefabricated furniture and materials for the construction of fitted furniture are not building materials for VAT purposes, such as:

- wardrobes (other than those basic wardrobes described at sub-paragraph 13.5.1) including basic wardrobes installed as part of a larger installation of furniture in the room;
- elaborate vanity units;
- wall units, such as bathroom cabinets;
- laboratory work benches; and
- pews, choir and clergy stalls.

13.6 Electrical and gas appliances

Most devices that are powered by electricity or gas are not building materials for VAT purposes, even if they are required to be incorporated in a building as a requirement of Building Regulations. Electrical and gas appliances are, however, building materials when they are:

- designed by the manufacturers to heat space or water (this includes cookers which are designed to have a dual purpose to heat the room or the building's water);
- designed to provide ventilation, air cooling, air purification, or dust extraction;
- door entry systems, waste disposal units, or machines for compacting waste, and are used in a building designed as a number of dwellings such as a block of flats;
- burglar alarms, fire alarms, fire safety equipment, or devices for summoning aid in an emergency (but not phones or electric gates and barriers); or

- lifts or hoists.

Appliances powered by other fuels are building materials when they are ordinarily incorporated in the building. For example, solid fuel or oil-fired cookers are building materials.

13.7 Carpets

Carpets, carpet tiles and underlay are not building materials for VAT purposes.

Other forms of flooring or floor covering, such as linoleum, ceramic tiles, parquet and wooden floor systems are building materials.

13.8 Examples of articles 'ordinarily' incorporated in a building

Articles accepted as being 'ordinarily' incorporated in a building (or its site) are listed below. This is not a complete list. Remember, these articles are only building materials for VAT purposes when they meet **all** the conditions at paragraph 13.2.

13.8.1 Dwellings

- Air conditioning;
- Bathroom accessories, such as fixed towel rails, toilet roll holders, soap dishes;
- Builders' hardware;
- Burglar alarms;
- Curtain poles and rails;
- Decorating materials;
- Doors;
- Dust extractors and filters (including built-in vacuum cleaners);
- Fencing permanently erected around the boundary of the dwelling;
- Fireplaces and surrounds;
- Fire alarms;
- Fitted furniture (only kitchen furniture are 'building materials' - see paragraph 13.5);
- Flooring materials (carpets are not 'building materials' – see paragraph 13.7);
- Gas and electrical appliances when wired-in or plumbed-in (only certain gas and electrical appliances are 'building materials' - see paragraph 13.6);
- Guttering;
- Heating systems (including radiators and controls, ducted warm-air systems, storage heaters and other wired in heating appliances, gas fires and solar powered heating);
- Immersion heaters, boilers, hot and cold water tanks;
- Kitchen sinks, work surfaces and fitted cupboards;
- Letter boxes;
- Lifts and hoists;
- Light fittings (including chandeliers and outside lights);
- Plumbing installations, including electric showers and 'in line' water softeners;
- Power points (including combination shaver points);
- Sanitary ware;
- Saunas;
- Shower units;
- Smoke detectors;
- Solar panels;

- Solid fuel cookers and oil-fired boilers;
- Swimming pools inside the house, including water heaters and filters but not diving boards and other specialist equipment;
- Turf, plants and trees (the incorporation of trees and plants in the site of a building is only supplied in the course of the work being carried out in certain circumstances – for further information see sub-paragraph 3.3.5);
- TV aerials;
- Ventilation equipment (including cooker hoods);
- Warden call systems;
- Window frames and glazing;
- Wind and water turbines; and
- Wiring (including power circuits and computer, phone and TV cabling).

13.8.2 Buildings used for a relevant residential purpose

- Mirrors.

13.8.3 Buildings used for a relevant charitable purpose

- Blinds and shutters
- Lighting systems
- Mirrors.

13.8.4 Schools

- Blackboards fixed to or forming part of the wall
- Gymnasium wall bars
- Notice and display boards
- Mirrors and barres (in ballet schools).

13.8.5 Churches

- Altars
- Church bells
- Fonts
- Lecterns
- Pipe organs
- Pulpits.

14. Dwellings, 'relevant residential purpose' and 'relevant charitable purpose' – an explanation of terms

14.1 Why do I need to read this section?

The zero-rated and reduced-rated supplies described in this notice are limited to supplies involving certain types of dwellings, 'relevant residential purpose' buildings and 'relevant charitable purpose' buildings.

This section explains the meaning of the terms used in the rest of this notice. Section 15 explains what to do if only part of the building is qualifying accommodation.

14.2 What 'designed as a dwelling or number of dwellings' means

14.2.1 The definition

A building is 'designed as a dwelling or number of dwellings' where the building contains a dwelling or more than one dwelling **and** in relation to each dwelling the following conditions are satisfied:

- the dwelling consists of self-contained living accommodation;
- there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
- the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision;
- the separate disposal of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision; and
- statutory planning consent has been granted in respect of that dwelling and its construction or conversion has been carried out in accordance with that consent.

This definition applies to:

- section 3 - Zero-rating the construction of new buildings;
- section 4 - Zero-rating the sale of, or long lease in, new buildings;
- section 5 - Zero-rating the sale of, or long lease in, non-residential buildings; and
- section 6 - Zero-rating the conversion of non-residential buildings for relevant housing associations.

14.2.2 Is an occupancy restriction a prohibition on separate use or disposal?

No. Occupancy restrictions are not prohibitions on separate use or disposal and do not affect whether a building is 'designed as a dwelling or number of dwellings'. Common examples of occupancy restrictions include those that limit the occupancy to people:

- working in agriculture or forestry; and
- over a specified age.

14.3 What 'designed to remain as or become a dwelling or number of dwellings' means

14.3.1 The definition

A building is 'designed to remain as or become a dwelling or number of dwellings' where the building contains a dwelling or more than one dwelling **and** in relation to each dwelling the following conditions are satisfied:

- the dwelling consists of self-contained living accommodation;
- there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
- the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision; and
- the separate disposal of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision.

This definition applies to:

- section 9 - Zero-rating approved alterations to protected buildings; and
- section 10 - Zero-rating the sale of, or long lease in, substantially reconstructed protected buildings.

14.3.2 Is an occupancy restriction a prohibition on separate use or disposal?

No. The guidance in sub-paragraph 14.2.2 applies in the same way to this paragraph as it does to paragraph 14.2.

14.4 What 'single household dwelling' means

14.4.1 The definition

A 'single household dwelling' is a dwelling that:

- is designed for occupation by a single household either as a result of having been originally constructed for that purpose (and has not been subsequently adapted for occupation of any other kind), or as a result of adaptation;
- consists of self-contained living accommodation;
- has no provision for direct internal access to any other dwelling or part of a dwelling;
- is not prohibited from separate use by the terms of any covenant, statutory planning consent or similar provision; and
- is not prohibited from separate disposal by the terms of any covenant, statutory planning consent or similar provision.

This definition applies to:

- section 7 - Reduced-rating the conversion of premises; and
- section 8 - Reduced-rating the renovation or alteration of empty residential premises.

14.4.2 Is an occupancy restriction a prohibition on separate use or disposal?

No. The guidance in sub-paragraph 14.2.2 applies in the same way to this paragraph as it does to paragraph 14.2.

14.5 What 'multiple occupancy dwelling' means

14.5.1 The definition

A 'house in multiple occupation' is a dwelling that:

- is designed for occupation by persons not forming a single household either as a result of having been originally constructed for that purpose (and has not been subsequently adapted for occupation of any other kind), or as a result of adaptation;
- is not to any extent used for a relevant residential purpose – see paragraph 14.6;
- consists of self-contained living accommodation;
- has no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
- is not prohibited from separate use by the terms of any covenant, statutory planning consent or similar provision; and
- is not prohibited from separate disposal by the terms of any covenant, statutory planning consent or similar provision.

This definition applies to:

- section 7 - Reduced-rating the conversion of premises; and
- section 8 - Reduced-rating the renovation or alteration of empty residential premises.

14.5.2 Is an occupancy restriction a prohibition on separate use or disposal?

No. The guidance in sub-paragraph 14.2.2 applies in the same way to this paragraph as it does to paragraph 14.2.

14.5.3 What is included within the meaning of 'multiple occupancy dwelling'?

A multiple occupancy dwelling is normally a dwelling consisting of a number of bed-sits.

Multiple occupancy dwellings do not include:

- single household dwellings with accommodation for au pairs, family guests or 'live-in' lodgers; or

- hotels, guest houses, and similar establishments providing accommodation for holiday makers, travellers and similar temporary guests.

14.6 What 'relevant residential purpose' means

14.6.1 The definition

'Relevant residential purpose' means use as:

- a home or other institution providing residential accommodation for children,
- a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
- a hospice,
- residential accommodation for students or school pupils,
- residential accommodation for members of any of the armed forces,
- a monastery, nunnery or similar establishment, or
- an institution which is the sole or main residence of at least 90 per cent. of its residents;

but **not** use as a:

- hospital or similar institution,
- prison or similar institution, or
- hotel, inn or similar establishment.

This definition applies to:

- section 3 - Zero-rating the construction of new buildings;
- section 4 - Zero-rating the sale of, or long lease in, new buildings;
- section 5 - Zero-rating the sale of, or long lease in, non-residential buildings;
- section 6 - Zero-rating the conversion of non-residential buildings for relevant housing associations;
- section 7 - Reduced-rating the conversion of premises;
- section 8 - Reduced-rating the renovation or alteration of empty residential premises;
- section 9 - Zero-rating approved alterations to protected buildings; and
- section 10 - Zero-rating the sale of, or long lease in, substantially reconstructed protected buildings.

14.6.2 What 'home' and 'institution' mean

The terms 'home' and 'institution' apply to categories (a), (b) and (g) in sub-paragraph 14.6.1.

It is often important to know whether the building is, itself, used as a 'home' or 'institution'. For example, a bedroom block constructed in the grounds of a registered care home cannot be zero-rated as the construction of a building intended for use solely for a relevant residential purpose because it is not, in itself, a 'home' or 'institution' but part of a larger 'home' or 'institution'.

There are some exceptions, explained in the relevant sections, when a group of buildings can be considered together. For example, a number of buildings constructed at the same time on the same site that are intended to be used together as a unit solely for a relevant residential purpose can be zero-rated – see section 3.

To determine if a building (or group of buildings) is used as a 'home' or 'institution', all relevant factors need to be considered including:

- the use to which the building is put;
- whether the building is used in conjunction with other buildings nearby;
- whether there is common ownership, financial control, management or administration;
- how the use of the building is promoted in advertising; and
- how the use of the building is licensed by any controlling authority.

14.6.3 What 'residential accommodation' means

The term 'residential accommodation' applies to categories (a), (b), (d) and (e) in sub-paragraph 14.6.1.

By 'residential accommodation' we mean lodging, sleeping or overnight accommodation. For example, accommodation for students attending a residential training course is 'residential accommodation'.

A building containing living accommodation is not 'residential accommodation' unless the building contains sleeping accommodation. For example, if the only living accommodation in a building is a dining hall then that is not 'residential accommodation'.

However, a dining hall that is to be constructed at the same time as another building (or buildings) containing sleeping accommodation with the intention that they are to be used together to provide living accommodation, is 'residential accommodation'.

If a building contains both bedrooms and a dining hall then both parts are 'residential accommodation'.

However, the dining hall must be used exclusively by those persons using the sleeping accommodation in that building. Use by persons sleeping in other buildings prevents the dining hall from being 'residential accommodation' unless all the buildings involved were constructed together and were intended to be used collectively as living accommodation.

Paragraph 15.5 explains when an apportionment is needed.

14.7 What 'relevant charitable purpose' means

14.7.1 The definition

'Relevant charitable purpose' means use by a charity in either or both of the following ways:

- otherwise than in the course or furtherance of business – see sub-paragraph 14.7.2;
- as a village hall or similarly in providing social or recreational facilities for a local community – see sub-paragraph 14.7.3.

This definition applies to:

- section 3 - Zero-rating the construction of new buildings;
- section 4 - Zero-rating the sale of, or long lease in, new buildings;
- section 9 - Zero-rating approved alterations to protected buildings; and
- section 10 - Zero-rating the sale of, or long lease in, substantially reconstructed protected buildings.

14.7.2 Business

Information on what is meant by 'business' can be found in Notices:

- 700 *The VAT Guide*,
- 701/1 *Charities*, and
- 702/30 *Education and vocational training*.

Remember, activities that do not make a profit, or activities where any profit is only used to further the aims and objectives of the charity, can still be business activities.

Buildings typically seen as not being used for business purposes include:

- places of worship; and
- offices used by charities for administering non-business activity, such as the collection of donations.

Buildings typically seen as being used for business purposes:

- membership organisations where the organisation charges a membership fee
- school buildings where a fee is charged for the provision of education;
- offices used by charities for administering business activities, such as fund-raising events where an entrance fee is charged; and
- village halls and similar buildings, **but** see below.

14.7.3 Village halls and similar buildings

A building falls within this category when the following characteristics are present:

- there is a high degree of local community involvement in the building's operation and activities; and

- there is a wide variety of activities carried on in the building, the majority of which are for social and/or recreational purposes (including sporting).

NB: Users of the building need not be confined to the local community but can come from further afield.

Any part of the building which cannot be used for a variety of social or recreational activities cannot be seen as being used as a village hall.

Buildings that are **not** typically seen as being similar to village halls are:

- community swimming pools;
- community theatres;
- membership clubs (although community associations charging a notional membership fee can be excluded); or
- community amateur sports clubs.

Buildings that are seen as being similar to village halls when the characteristics noted above are present:

- scout or guide huts;
- sports pavilions;
- church halls;
- community centres; and
- community sports centres.

15. Apportionment for part qualifying buildings

15.1 What are the apportionment rules?

Where only part of a building consists of qualifying accommodation (such as a building consisting of shops with flats above), your supply (which may be building work or the sale or lease in the property) must be zero-rated or reduced rated to the extent that it relates to the qualifying parts.

If your supply only relates to the qualifying parts of the building then you charge VAT at the zero-rate or reduced-rate as appropriate.

Similarly, if your supply only relates to the non-qualifying parts of the building then you cannot zero-rate or reduced-rate your charge.

If your supply relates in part to qualifying parts of the building and in part to non-qualifying parts, you can only zero-rate or reduced-rate your supply to the extent that it relates to the qualifying parts. A fair and reasonable apportionment should be made.

15.2 Roofs, foundations, and so on

Building work that relates to the fabric of the building affecting both qualifying and non-qualifying parts of the building must be apportioned, such as work to:

- roofs,
- foundations,
- lifts, and
- building services that supply the whole building, such as wiring and plumbing.

15.3 Communal areas in blocks of flats

Typically, blocks of flats consist of individual dwellings and areas for the use of all residents, such as a lounge, laundry and refuse area and, occasionally, gym, pool and leisure facilities. The first sale of each flat is zero-rated and the buyer also acquires a right to use the communal areas.

Where the communal areas are only used by residents and their guests, we accept that the construction of the whole building is zero-rated. Where the communal areas are partly used by others, then the construction of the communal areas is standard-rated.

15.4 Live-work units

A live-work unit is a property that combines, within a single unit, a dwelling and commercial or industrial working space as a requirement or condition of planning permission.

Zero-rating or reduced-rating is only available to the extent that the unit comprises the dwelling, provided that the dwelling meets the normal conditions outlined in paragraphs 14.2 to 14.5.

Dwellings that contain a home office are not live-work units and no apportionment is needed.

15.4.1 Determining the extent of the dwelling

Units where the work area is shown as a discrete area of floor space, be it an office or workshop, must be apportioned to reflect the presence of the commercial element.

Where planning permission requires that a minimum amount of the unit (for example 20%) must be used for commercial or industrial purposes, the remaining amount (that is 80%) can be treated as being the dwelling element for VAT purposes.

However, where a unit has neither:

- an area that must, as a requirement or condition of planning permission, be used for commercial or industrial purposes, nor
- planning permission requiring a certain percentage of the floor space be used for commercial or industrial purposes;

it may be treated for VAT purposes as if it were entirely a dwelling and no apportionment is required.

15.4.2 Liability of commercial or industrial areas that are treated as part of the dwelling

If the commercial or industrial areas are treated as if they are part of the dwelling – see sub-paragraph 15.4.1 above – then the following rules apply to the whole unit:

- construction or conversion services – your supplies are zero-rated or reduced-rated, subject to the normal rules explained in this notice;
- sales and long leases – your supplies are zero-rated, subject to the normal rules explained in this notice;
- short leases – your supply is exempt from VAT.

15.4.3 Liability of commercial or industrial areas that are not treated as part of the dwelling

If the commercial or industrial areas are not treated as part of the dwelling – see sub-paragraph 15.4.1 above – then the following rules apply to those parts:

- construction or conversion services – standard-rate your supply.
- sales where the building is less than 3 years old – standard rate your supply.
- sales where the building is over 3 years old – your supply is exempt from VAT (but see below if you have opted to tax).
- leases – your supply is exempt from VAT (but see below if you have opted to tax).

If you have opted to tax what would otherwise be an exempt supply in respect of the building, the sale or lease of the commercial or industrial areas remain exempt if their actual, or intended, use is as living space as part of the dwelling. In such cases you must hold confirmation of this from the purchaser or tenant.

Further information on exempting the sale and lease of buildings and opting to tax is in Notices 742 *Land and property* and 742A *Opting to tax land and buildings*.

The rules in sub-paragraph 15.4.2 above apply to the dwelling part.

15.5 'Relevant residential purpose' buildings

If you are making a supply in connection with a building intended for use as residential accommodation for students or school pupils, or residential accommodation for members of any of the armed forces you can only zero-rate or reduced-rate your supply to the extent that it relates to the 'residential accommodation'.

If you are making a supply in connection with a building intended for use as a home or other institution, zero-rating or reduced-rating is not restricted to the residential accommodation but can extend to other areas within the building(s) such as administration offices or leisure or educational facilities .

16. Certificates for qualifying buildings

16.1 When does a contractor or developer need to hold a certificate?

You need to hold, within your business records, a valid certificate when you make:

- any zero-rated or reduced-rated supply in connection with a building that will be used solely for a 'relevant residential purpose' – see paragraph 14.6; or
- any zero-rated supply in connection with a building that will be used solely for a 'relevant charitable purpose' – see paragraph 14.7.

There is no requirement to hold a certificate for zero-rated or reduced-rated supplies in connection with buildings that will be used as one of the types of dwelling described at paragraphs 14.2 to 14.5.

16.2 Can contractors and developers automatically zero-rate or reduced-rate their supply on receipt of a valid certificate?

No. Possession of a valid certificate does not mean that you can automatically zero-rate or reduced-rate your charge. You must meet all of the conditions explained in the relevant sections of this notice.

16.3 Can contractors and developers automatically accept a certificate as being valid?

No. You must also take all reasonable steps to check the validity of the certificate. This includes corresponding with your customer to confirm the details of the use of the building. You should retain such correspondence within your records.

As a concession, if you have taken all reasonable steps to check the validity of the certificate and acted in good faith, you will not normally be asked to account for VAT if the certificate is subsequently found to have been issued in error. The wording of the concession is reproduced in Notice 48 *Extra-statutory concessions*.

16.4 Should subcontractors accept certificates?

No. If you are a contractor working to a main contractor, you should not be issued with a certificate and so you should always standard-rate your supply.

16.5 How are certificates issued?

The customer for the zero-rated or reduced-rated work issues the certificate. The certificates at section 18 can be used, or the issuer can create his own certificate provided it contains the same information and declaration.

16.6 When should a customer issue their certificate?

If you are a customer, you should issue your certificate before your supplier makes his supply. However, as a concession, HM Revenue & Customs will allow your supplier to adjust his VAT charge on receipt of a belated certificate provided that:

- you can demonstrate to him that at the time he made his supply you had an intention that the building will be used in the way being certified, and
- all other conditions for zero-rating or reduced-rating are met.

Note, your supplier cannot make an adjustment with us if he is restricted from doing so under the three year 'capping' rules – see Notice 700/45 *How to correct VAT errors and make adjustments or claims*.

16.7 Which certificate do I issue?

The two available certificates confirm that you are either eligible to receive:

- zero-rated or reduced-rated building work (the certificate can be found at paragraph 18.1); or
- a zero-rated sale or long lease (the certificate can be found at paragraph 18.2).

You should issue whichever certificate is appropriate.

16.8 Are there penalties for issuing incorrect certificates?

Yes. If you issue an incorrect certificate, you may be liable to a penalty equivalent to the amount of VAT not charged. A penalty is not VAT and, if you are registered for VAT, you will not be able to recover it as input tax.

A penalty will not be issued, or will be withdrawn, if you can demonstrate that there is a reasonable excuse for issuing the incorrect certificate.

16.9 What am I certifying?

16.9.1 Building work

If you are obtaining building work, your declaration confirms to your supplier that **you** will use the building, or the part of the building, on which you are seeking zero-rating or reduced-rating:

- **solely** for a 'relevant residential purpose', or
- **solely** for a 'relevant charitable purpose'.

16.9.2 Sales and long leases

If you are buying a building, or a long lease in a building, your declaration confirms to your supplier that the **building**, or the part of the building, on which you are seeking zero-rating will be used:

- **solely** for a 'relevant residential purpose', or
- **solely** for a 'relevant charitable purpose'.

That use need not be necessarily by you, it can be by tenants of yours.

16.10 What do we mean by 'use'?

In order to be seen as using a building (or part of a building), you must be acting in one or both of the following ways:

- You must be occupying the building (or part) and carrying out an activity in the building;
- You must be leasing/letting the building on commercial terms.

If you are not occupying the building (or part) and allow another party to occupy the building (or part) for no charge, you are not using the building.

16.11 Sole use

A building (or part) is not used 'solely' for a qualifying purpose when it is:

- used at the same time for other purposes;
- used at a different time for other purposes; or
- never used for a qualifying purpose.

However, by concession, you can ignore minor non-qualifying use (that is use where the building (or part) is not used 'solely' for a relevant charitable purpose) and issue a certificate when the building (or in some cases that part of the building) would otherwise be used solely for a relevant charitable purpose. This is explained in section 17.

17. Relevant charitable purpose buildings – Concession for minor non-qualifying use

17.1 About the concession

You may not be able to issue a certificate because you do not intend to use the building (or part) **solely** for a relevant charitable purpose – see paragraph 16.10; and therefore you cannot normally benefit from any zero-rating or reduced-rating that may be available.

By concession, and subject to any necessary approval from HM Revenue & Customs, you can ignore minor non-qualifying use (use where the building (or part) is not used solely for a relevant charitable purpose) and issue a certificate. The full terms of the concession can be found in Notice 48 *Extra statutory concessions*.

17.2 When can I ignore minor non-qualifying use?

Subject to paragraph 17.4, a building (or part of a building) can be treated as being used solely for a relevant charitable purpose when for the 10 years following completion:

- the building, as a whole, will be used solely for qualifying use for 90% or more of the time it is available for use;
- in respect of an identifiable part of the building, that part will be used solely for qualifying use for 90% or more of the time it is available for use;
- 90% or more of the floor space of the building, as a whole, will be used solely for qualifying use; or
- 90% or more of the people using the building, as a whole, will be engaged solely on qualifying activity.

Note, the first two methods do **not** allow parts of a building that are never used solely for a relevant charitable purpose to be treated as if they were.

17.3 Over what period do I measure the use?

There is no prescribed period over which the use is measured.

Any reasonable representative period can be used. But you cannot change the period if your circumstances change.

17.4 When do I need approval to use a concession method?

You may use the first method listed in paragraph 17.2 above (the time based method for the whole building) without seeking permission from us. You must, however, seek written permission to use any of the other methods.

17.5 How do I seek permission to use a concession method?

You should write to us, including with your application:

- a full description of how the building (or the part on which you seek zero-rating or reduced-rating) will be used, including the non-qualifying use;
- when applying to use the floor space method, details of the total floor space and qualifying floor space in the building, and supporting plans that clearly identify the qualifying parts;
- when applying to use the head count method, a full list of the normal occupants of the building, a description of their role in the organisation, and confirmation as to whether they take part in the non-qualifying use of the building;
- the representative period over which you intend to monitor the use of the building (or part); and
- if the building (or part) is also to be occupied by another person, how that person will use their part of the building and copies of any lease arrangements between you and that person.

HMRC will not approve use of a method that:

- produces an unfair or unreasonable result for your circumstances;
- uses a combination of methods; or
- is used for tax avoidance purposes.

17.6 Can I change method?

No. Once you adopt one of the concession methods you will not be able to change it if your circumstances change.

18. The certificates

18.1 Zero-rated and reduced-rated building work

This certificate has the force of law.

Certificate for zero-rated and reduced-rated building work
1. Address of the building:
2. Name and address of organisation receiving the building work: VAT Registration number (if registered): Charity registration (if registered):
3. Date of completion (or estimated date of completion) of the work: Value (or estimated value) of the supply: £ Name, address and VAT registration number of building contractor:

4. I have read the relevant parts of Notice 708 *Buildings and construction* and certify that this organisation (in conjunction with any other organisation where applicable) will use the building, or the part of the building, for which zero-rating or reduced-rating is being sought **solely** for (tick as appropriate

a relevant charitable purpose, namely by a charity in either or both of the following ways:

otherwise than in the course or furtherance of business, or

as a village hall or similarly in providing social or recreational facilities for a local community.

a relevant residential purpose, namely as:

(a) a home or other institution providing residential accommodation for children

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder

a hospice

residential accommodation for students or school pupils

residential accommodation for members of any of the armed forces

a monastery, nunnery or similar establishment or

an institution which is the sole or main residence of at least 90 per cent of its residents

and will not be used as a hospital, prison or similar institution or an hotel, inn or similar establishment.

5. I certify that:

- the information given is complete and accurate; and
- if the building, or a part of the building, for which zero-rated supplies have been obtained, is let or otherwise used for a purpose which is not solely for a relevant residential purpose or relevant charitable purpose within a period of 10 years from the date of its completion, a taxable supply will have been made, and this organisation will account for tax at the standard rate.

Name (print):

Position held:

Signed:

Date:

General warning

1. HMRC reserves the right to alter the format of the certificate through the publication of a new notice. You must ensure that the certificate used is current at the time of issue.

Warnings for the issuer

2. You may be liable to a penalty if you issue a false certificate.
3. You are responsible for the information provided on the completed certificate.

Warnings for the developer

4. You must take all reasonable steps to check the validity of the declaration given to you on this certificate.
5. You must check that you meet all the conditions for zero-rating or reduced-rating your supply – see Notice 708 *Buildings and construction*.

18.2 Zero-rated sales and long leases

This certificate has the force of law

Certificate for sales and long leases of zero-rated buildings

1. Address of the building:

2. Name and address of organisation buying, or entering into a long lease on, the building (or part of the building):

VAT Registration number (if registered):

Charity registration (if registered):

3. Date (or estimated date) of purchase or commencement of the lease:

Value (or estimated value) of the supply: £

Name, address and VAT registration number of the developer:

4. I have read the relevant parts of Notice 708 *Buildings and construction* and certify that the building, or the part of the building, for which zero-rating is being sought will be used **solely** for (tick as appropriate

a relevant charitable purpose, namely by a charity in either or both of the following ways:

(a) otherwise than in the course or furtherance of business or

(b) as a village hall or similarly in providing social or recreational facilities for a local community.

a relevant residential purpose, namely as:

a home or other institution providing residential accommodation for children

a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder

a hospice

residential accommodation for students or school pupils

residential accommodation for members of any of the armed forces

a monastery, nunnery or similar establishment or

an institution which is the sole or main residence of at least 90 per cent of its residents

and will not be used as a hospital, prison or similar institution or an hotel, inn or similar establishment.

5. I certify that:

- the information given is complete and accurate; and
- if the building, or a part of the building, for which zero-rated supplies have been obtained, is let or otherwise used for a purpose which is not solely for a relevant residential purpose or relevant charitable purpose within a period of 10 years from the date of its completion, a taxable supply will have been made, and this organisation will account for tax at the standard rate.

Name (print):

Position held:

Signed:

Date:

General warning

1. HMRC reserves the right to alter the format of the certificate through the publication of a new notice. You must ensure that the certificate used is current at the time of issue.

Warnings for the issuer

2. You may be liable to a penalty if you issue a false certificate.
3. You are responsible for the information provided on the completed certificate.

Warnings for the developer

4. You must take all reasonable steps to check the validity of the declaration given to you on this certificate.
5. You must also check that you meet all the conditions for zero-rating your supply – see Notice 708 *Buildings and construction*.

19. Changing the use of certificated buildings

19.1 What are the VAT implications of changing the use of a certificated building?

If you have obtained zero-rating for a certificated building (a building or part of a building) that was zero-rated because you issued a certificate saying it will be used solely for a 'relevant residential purpose' or a 'relevant charitable purpose', you may need to account for VAT if the building ceases to be used solely for that purpose within 10 years of the building being completed. This could be as much as the VAT you saved when you acquired the building at the zero rate.

The rules in this section only apply if **you** have received a supply in connection with a certificated building that was zero-rated under the rules in sections:

- 3 - Zero-rating the construction of new buildings;
- 4 - Zero-rating the sale of, or long lease in, new buildings;
- 5 - Zero-rating the sale of, or long lease in, non-residential buildings; or
- 6 - Zero-rating the conversion of non-residential buildings for relevant housing associations.

and not relied on the concession in section 17 for minor non-qualifying use in buildings intended for use solely for a relevant charitable purpose.

The rules in this section do not apply to the extent that you have received:

- supplies that were zero-rated as approved alterations to a protected building – see section 9;
- supplies that were zero-rated as the sale or long lease in a substantially reconstructed protected building – see section 10;
- supplies that were reduced-rated;
- an interest in the building that was exempt from VAT;
- a refund under the Do-it-Yourself Builders and Converters Refund Scheme – see Notice 719 *VAT refunds for 'do-it-yourself' builders and converters*; or
- zero-rated supplies over 10 years ago.

19.2 What 'change of use' means

The use of a building (or part of a building) changes when, within 10 years of completion of the building, you either:

- sell or lease the building and the building is no longer intended for use solely for a 'relevant residential purpose' or 'relevant charitable purpose'; or
- change your own use of the building so that it is no longer used solely for a 'relevant residential purpose' or 'relevant charitable purpose'.

19.3 What happens if I sell or lease the building to somebody else?

If, within 10 years of completion of the building, you sell or lease the building and the building is no longer intended for use solely for a 'relevant residential purpose' or 'relevant charitable purpose' you must charge VAT at the standard rate.

If, within 10 years of completion of the building, you sell or lease the building and it is still intended for use solely for a 'relevant residential purpose' or 'relevant charitable purpose' you must first determine if your supply is outside the scope of VAT – see Notice 700/9 *Transfer of a business as a going concern*. If your supply is within the scope of VAT, it will normally be exempt from VAT – see Notice 742 *Land and property*. It may, however, be zero-rated if you developed the building and are making your first sale or long lease in it – see section 4.

19.4 What happens if my own use of the building changes?

If you put the building solely to an alternative 'relevant residential purpose' or 'relevant charitable purpose' you do not account for VAT.

If, within 10 years of completion of the building, you no longer use the building solely for a 'relevant residential purpose' or 'relevant charitable purpose' you must account for VAT.

19.5 Completion

Completion' takes place at a given moment in time. That point in time is determined by weighing up the relevant factors of the project, such as:

- when a Certificate of Completion is issued;
- the accordance to approved plans and specifications;
- the scope of the planning consent and variations to it; and
- whether the building is habitable or fit for purpose.

19.6 How much do I have to pay?

19.6.1 Sales and leases

If you sell or lease the building (or part of the building), you account for VAT on the value of your supply relating to those parts of the building that originally benefited from zero-rating.

19.6.2 Change of own use

If you change your own use of the building (or part of the building), you pay the amount of VAT you originally saved on those parts of the building where the change of use takes place. You do not make adjustments for:

- changes in the market value of the property; or
- changes in the standard rate of VAT.

You do, however, make an adjustment for the amount of qualifying use that has taken place as follows:

Number of complete years of qualifying use that have taken place when the change in use of the building happens	VAT payable as a percentage of the original VAT saved
0	100%
1	90%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9	10%
10 or more	0%

Example:

A charity pays £1m for a new zero-rated building for its non-business use. At the time of purchase the standard rate of VAT was 17.5%. After 2½ years the charity changes the use of the building to business use.

VAT that would have been payable if the original supply had been standard-rated = £1m x 17.5% = £175,000.

Amount of VAT due to HMRC = £175,000 x 80% = £140,000.

19.7 How do I account for VAT?

19.7.1 Sales and leases

If you sell or lease the building, the VAT charged on your supply is declared as output tax on your VAT return for the VAT period in which you make your supply.

19.7.2 Change of own use

If you change the use of the building yourself, you declare the VAT due as output tax (as if you had made a supply) on your VAT return for the period in which you change the use. You can then deduct this VAT as input tax (as if you had made the supply to yourself) to the extent that it relates to any other taxable supplies you make.

You may need to make subsequent adjustments to the amount of input tax you deduct if:

- the tax exclusive amount that produces the output tax due (and, by extension, the input tax deductible), is £250,000 or more, and
- the building is used to make exempt supplies.

The standard rate of VAT in force when you changed the use of the building may be different to the standard rate of VAT in force when you received the original zero-rated supply.

Further information on input tax adjustments is in Notice 706/2 *Capital goods scheme*. Changes to the standard rate of VAT are listed in Notice 700 *The VAT Guide*.

19.8 VAT registration

If you are not registered for VAT, you will need to determine if you should be.

In determining whether you become liable for registration, the charges and self-supplies described in this section are included as part of your taxable turnover. Further information on registration can be found in Notice 700/1 *Should I be registered for VAT?*

If you do not become liable for registration then you do not account for the charges and self-supplies described in this section.

20. Zero-rating the development of residential caravan parks

20.1 The basic conditions for zero-rating the development of residential caravan parks

Civil engineering work necessary for the development of permanent parks for residential caravans is zero-rated. Your services can be zero-rated when **all** of the following conditions are met:

Condition	Description	Further information
1	A permanent park for residential caravans is developed.	paragraph 20.2
2	You carry out civil engineering work that is necessary for the development of the park.	paragraph 20.3
3	Your services are not specifically excluded from zero-rating.	paragraph 20.4

Paragraph 20.5 also explains when you may need to apportion your charges.

You **cannot** zero-rate work that is not civil engineering work, such as the construction of:

- indoor swimming pools;
- social centres;
- shops;
- fitness clubs;
- a doctor's surgery; and
- a manager's house (although the work may be zero-rated under the rules in section 3).

20.2 What is a 'residential caravan'?

The park being developed must only be for residential caravans.

A residential caravan is one in which residence throughout the year is not prevented by the terms of a covenant, statutory planning consent or similar permission. The development of a holiday park of fixed caravans, or parks for touring caravans, is, therefore, normally standard-rated.

20.3 Is my civil engineering work necessary for the development of the park?

Examples of zero-rated civil engineering work include:

- laying new pitches or bases for the caravans;
- laying new roads, drives, parking bays and paths;
- installing water, electricity and gas supplies; and
- installing drainage and sewerage.

Works that are unnecessary (and are standard-rated) include the construction of:

- playgrounds; and
- hard landscaping.

20.4 Services excluded from zero-rating

20.4.1 Alterations to existing works

You cannot zero-rate the reconstruction, alteration or improvement of an existing work, such as widening or upgrading an existing road.

20.4.2 Architects, surveyors, consultants and supervisors

The separate supply of architectural, surveying, consultancy and supervisory services is always standard-rated.

Sub-paragraph 3.4.1 explains when a separate standard-rated supply takes place under different types of building contract.

20.4.3 Goods on hire

Goods hired on their own are always standard-rated. Examples of standard-rated hire are given at sub-paragraph 3.4.2.

20.4.4 Goods put to a temporary private use

The guidance at sub-paragraph 3.4.3 applies in the same way to this section as it does to section 3.

20.5 Apportionment

20.5.1 Apportionment for alterations to existing works.

Works of reconstruction, alteration or improvement are standard-rated – see sub-paragraph 20.4.1. If you are supplying both zero-rated and standard-rated civil engineering work you must apportion your supply to reflect the differing liabilities.

20.5.2 Apportionment for mixed site developments

Where a service is supplied in part in relation to necessary civil engineering work and in part for other purposes, an apportionment may be made to determine the extent to which the supply is treated as being zero-rated.

If you decide not to make an apportionment then none of your work can be zero-rated.

21. Place of supply of construction services and working overseas

21.1 The place of supply of construction services

The place of supply of services directly related to land or property is where the land itself is located, irrespective of where you or your customer belongs. Notice 741 *Place of supply of services* provides examples of services that are, and are not, directly related to land and property. You should also refer to Notice 741 for detailed guidance on the place of supply of construction and other land-related services.

21.2 Work carried out in the UK

If the place of supply of your construction services is the UK (including the Isle of Man but not the Channel Islands) then your supplies are within the scope of UK VAT and you may need to register and account for VAT. Notice 700/1 *Should I be registered for VAT?* explains when and how you should register for VAT in the UK.

21.3 Work carried out outside of the UK

If the place of supply of your construction services is outside the UK then your supplies are outside the scope of UK VAT and you do not charge UK VAT to your customer. Your supplies may, however, be subject to VAT in the country where your services are supplied and you may be liable to register and account for VAT there. You should contact the VAT authorities in the relevant member state for guidance. For a list of contact addresses, see Notice 725 *The Single Market*.

If you carry out work in another EU member state, transfer your own materials or plant there to carry out the work, and are not VAT registered in the member state to which you transfer the goods, you may have to account for UK VAT on the goods you transfer. But no VAT is due on goods you temporarily transfer from the UK to another member state, either in the UK or in the other member state. Further information on transfers of own goods can be found in Notice 725 *The Single Market*.

22. Value of supply – Deductions and liquidated damages

22.1 Income tax deductions

If income tax is deducted from payments you receive, the value of your supply is the gross amount before income tax is deducted.

22.2 Construction Industry Training Board levies

If you agree to CITB levies being deducted from payments you receive, the value of your supply is the amount after the deduction has been made.

22.3 Liquidated damages

Liquidated damages are agreed pre-estimated sums to be paid in the event of a breach of contract by one of the parties. The amount is either a set figure or determined by a formula.

If you receive liquidated damages, you are not receiving payment for a supply by you and no VAT is due on that amount.

If you are due to make a payment for liquidated damages and due to receive from the other party a payment for a supply made by you, you cannot reduce the value of your supply (and therefore cannot reduce the amount of VAT chargeable) even if you set the amounts off against each other.

23. Tax points, authenticated receipts and self-billing

23.1 Time of supply (tax points)

23.1.1 Single payment contracts

Single payment contracts are subject to the normal tax point rules (explained in Notice 700 *The VAT Guide*) including the creation of a basic tax point when the work has been completed.

23.1.2 Retention payments

Retention clauses allow the customer to hold back a proportion of the contract price once the work has been completed, pending confirmation that the supplier has done the work properly and has rectified any immediate faults that might be found.

Under the normal tax point rules, which apply to single payment contracts – see paragraph 23.1.1 – you would be required to account for VAT on any outstanding retention payments at the basic tax point. However, there are special rules that apply to retention payments generally. The tax point for the retention element of the contract is delayed until you either receive the retention payment or issue a VAT invoice for it, whichever occurs first.

23.1.3 Contracts that provide for periodic payments

If, under a contract that provides for periodic payments (often referred to as stage payments or interim payments), you make supplies of:

- services (including supplies made by architects, surveyors, consultants or those acting in a supervisory capacity), or
- services together with goods,

in the course of the construction, alteration, demolition, repair or maintenance of a building or of any civil engineering work, the tax point for your supply is the earlier of receipt of payment or the issue of a VAT invoice.

There is no basic tax point when the work is completed unless the contract is covered by the special anti-avoidance rules that can apply in some cases. Further information on these rules can be found in section 24.

23.1.4 Self-billing and authenticated receipts

The tax point rules for self-billed invoices and supplies made under the authenticated receipt procedure are explained at Notice 700/62 *Self-billing* Section 5 and 23.3.2 below respectively.

23.2 Self-billing

23.2.1 What is self-billing?

Under a self-billing arrangement, the customer makes out VAT invoices on behalf of the VAT registered supplier (for example, a main contractor makes out VAT invoices on behalf of their registered sub-contractor) and sends a copy of the invoice to the supplier with the payment. Further information on self-billing can be found in Notice 700/62 *Self Billing*

23.2.2 When can I operate self-billing?

You can only issue self-billed invoices to your suppliers if:

- they have agreed to this method of accounting; and
- you can meet all the conditions in section 3 and paragraph 4.1 of Notice 700/62 *Self Billing*

You do not need to seek our authorisation to operate self-billing

23.3 Authenticated receipts

23.3.1 What is the authenticated receipt procedure?

The authenticated receipt procedure must not be confused with self-billing – see paragraph 23.2 above. An authenticated receipt is not a VAT invoice. The procedure allows a supplier to issue an authenticated receipt for payment and removes the requirement to issue a normal VAT invoice.

You should not use the authenticated receipt procedure when you make a supply under a single payment contract.

The procedure works by customers preparing receipts for supplies they receive and forwarding them to their suppliers with payment.

The receipts are only valid for VAT purposes when the supplier has authenticated them. The time limits for the issue of an authenticated receipt is the same as for VAT invoices – see Notice 700 *The VAT Guide*. Failure to provide an authenticated receipt is an offence.

The procedure can only be used when **all** of the following conditions are met:

- the customer and the supplier mutually agree to operate the procedure;
- services, or services together with goods, are supplied in the course of the construction, alteration, demolition, repair or maintenance of a building or of any civil engineering work;
- the contract provides for payments for such services to be made periodically, or from time to time;
- the receipt contains all the particulars required on a VAT invoice; and
- no VAT invoice or similar document is issued.

23.3.2 What is the tax point of an authenticated receipt?

The issue of an authenticated receipt does not create a tax point in the same way that a VAT invoice does. If you make a supply under a contract providing for periodic payments, the tax point is the date you receive payment or, where the special anti-avoidance rules described in section 24 apply, the date you complete the work.

23.3.3 When can I recover input tax on a supply made under the authenticated receipt procedure?

An authenticated receipt is acceptable as evidence for input tax purposes.

You may claim input tax in the tax period in which your supplier receives the stage payment, without waiting for an authenticated receipt but you must obtain and keep a copy of it. Suppliers cannot authenticate a receipt and return it to the customer until they have received the payment.

If you experience difficulty in obtaining an authenticated receipt from a supplier, you should contact us in writing on the third successive occasion that you are unable to obtain one. A claim to input tax may still be allowed if satisfactory alternative evidence is available, or you can show that reasonable efforts were made to secure an authenticated receipt and the claim is otherwise correct.

24. Tax points – The special anti-avoidance rule

This section explains the special tax point rule for construction services made under a contract that provides for periodic payments.

24.1 Why is there a special anti-avoidance rule?

Under the normal rule for contracts that provide for periodic payments – see sub-paragraph 23.1.3 – the tax point for your supply is the earlier of receipt of payment or the issue of a VAT invoice.

If a VAT invoice is not issued, the tax point (and therefore VAT payment) can be delayed. The special anti-avoidance rule counters the VAT effect of contracts where payment does not become due for many years after the completion of the work.

24.2 Do I have to read all of this Section?

You do not need to read this section if:

- the people who will be occupying the works can recover at least 80% of the VAT charged by the main contractor in respect of those works; or
- you are unconnected with the proposed occupiers **and** you are sure that neither you nor any of your subcontractors are receiving any form of finance from the proposed occupiers, nor anyone connected with them. In this connection, finance does not include interim payments for your construction work, on which VAT is accounted for.

If this section does not apply to you, you should follow the normal tax point rules explained in section 23.

24.3 How does the special anti-avoidance rule work?

If the anti-avoidance rule applies, you will have to account for VAT no later than when you complete your work. The following decision table explains when the anti-avoidance rule applies.

Step	Decision	Further information
1	Do you know who will occupy the works? <i>If 'yes', go to step 3.</i> <i>If 'no', go to step 2.</i>	paragraph 24.4
2	Do any of your subcontractors know who will occupy the works? <i>If 'yes', go to step 4.</i> <i>If 'no', you do not have to account for VAT when you complete your work and you can follow the normal rules explained in section 23.</i>	paragraphs 24.4 and 24.8
3	Will you, or someone connected with you, occupy the works? <i>If 'yes', go to step 7.</i> <i>If 'no', go to step 4.</i>	paragraphs 24.4 and 24.5
4	Will one of your subcontractors, or someone connected with one of your subcontractors, occupy the works? <i>If 'yes', go to step 7.</i> <i>If 'no', go to step 5.</i>	paragraphs 24.4, 24.5 and 24.8
5	Will someone who gave you finance to pay for the costs of your work, or someone connected with your financier, occupy the works? <i>If 'yes', go to step 7.</i> <i>If 'no', go to step 6.</i>	paragraphs 24.4 to 24.6
6	Will someone who gave your subcontractor finance to pay the costs of his work, or someone connected with his financier, occupy the works? <i>If 'yes', go to step 7.</i> <i>If 'no', you do not have to account for VAT when you complete your work and you can follow the normal rules explained in section 23.</i>	paragraphs 24.4 to 24.6 and 24.8
7	Will the occupier be able to reclaim at least 80% of their VAT on the works? <i>If 'yes', you do not have to account for VAT when you complete your work and you can follow the normal rules explained in section 23.</i> <i>If 'no', you must account for VAT no later than when you complete your work – see paragraphs 24.9 and 24.10.</i>	paragraph 24.7

24.4 When does someone 'occupy' the works?

A business occupies a building if its employees work there, or if it uses the building for storing its stock or other assets.

If, when you complete your work, you genuinely do not know who the intended occupier of the building is, you do not have to account for VAT on completion of your work, unless your subcontractor has to account for VAT when they complete their work.

24.5 Who are 'connected' persons?

Examples of connected persons are:

- your husband or wife;
- your relatives;

- your husband's or wife's relatives;
- your business partners and their husbands, wives and relatives;
- a company that you control, either by yourself or with any of the persons listed above; and
- the trustees of a settlement of which you are a settlor, or of which a person who is still alive and who is connected with you is a settlor.

Relative means a brother, sister, ancestor or lineal descendant. It does not include nephews, nieces, uncles and aunts.

24.6 When am I being 'financed'?

Financing can include:

- loans from banks or elsewhere;
- if you are a sole proprietor or partnership, private funds you may put into your business;
- if you are a company, shares you may issue; and
- whatever the legal structure of your business, financing from your trade creditors.

In addition, there are more unusual forms of finance covered by the anti-avoidance rule. A person provides finance to you, for example, if they:

- arrange for others to provide finance to you;
- pay your debts for you, or arrange for others to do so; or
- provide a guarantee or security for a loan you have taken out.

24.7 Will the occupier be able to reclaim at least 80% of their VAT on the works?

It is important to note that the test is whether the occupier of the building can recover 80% or more of the VAT relating to **that** building. It does not matter whether their **overall** ability to recover VAT is greater or less than 80%.

24.7.1 What buildings will not normally attract VAT recovery of 80% or more?

These are buildings that are used in the following ways:

- as a bank, or the headquarters of a banking group;
- as an insurance broker's office, or the office of an insurance company;
- as a school, college or university;
- as an office for a charity (but you do not have to worry about the special anti-avoidance rule if your work for the charity is zero-rated);
- as a private hospital, or the head office of a private healthcare business; or
- for any purpose if the occupier is not registered for VAT (but you do not have to worry about the special anti-avoidance rule if your work is zero-rated, such as constructing a house).

24.7.2 What buildings will normally attract VAT recovery of 80% or more?

These are buildings that are used in the following ways:

- as the head office of a fully taxable business,
- for any purpose if the occupier is a government department covered by section 41 of the Value Added Tax 1994. If you are in any doubt about whether the occupier is included, you should ask them in the first instance. If, after doing so, the position is still unclear then you should consult the National Advice Service (Phone: 0845 010 9000).
- for carrying out its statutory functions by a local authority,
- as a retail shop (so long as the retailer is registered for VAT),
- as a wholesale outlet (so long as the wholesaler is registered for VAT),
- as a factory or workshop (so long as the manufacturer is registered for VAT),
- as an importer's office or warehouse (so long as the importer is registered for VAT), or

- as a charity shop (so long as the charity shop is registered for VAT).

24.7.3 Public/Private Partnership (formerly Private Finance Initiative)

If a PPP or PFI arrangement relates to a building that will be occupied exclusively by a government department (including an NHS hospital), you do not have to account for VAT when you complete your work and you can follow the normal rules explained in section 23.

However, some PPP and PFI arrangements relate to buildings that will be occupied by private sector businesses too. If the private company is connected with the construction contractor (or a subcontractor) or provides finance to the contractor (or subcontractor), either itself or through an associated business, then the construction contract may be caught by the special anti-avoidance rule.

If for any reason your particular structure is caught, you do not need to account for VAT on the full cost of constructing the entire building when you complete your work. You may, instead, account for VAT only on a proportion of the overall price that fairly reflects the part of the building that will be occupied by the private company.

24.8 Your subcontractors

You are affected by the anti-avoidance rule if your subcontractors are affected by it. If, for example, a bank gives a loan to your sub-contractor specifically to do work on one of their banks, your sub-contractor would be affected by the anti-avoidance rule, and so would you.

The anti-avoidance rule has to be drafted this way because otherwise there would be an easy way round it for deliberate VAT avoiders. But we will not be looking to catch you out on a technicality in this area, and if it does come to our attention that you are inadvertently affected by the rule because of your subcontractors, we will look at your case sympathetically.

24.9 Completion of work

The guidance at sub-paragraph 3.3.2 applies in the same way to this section as it does to section 3.

24.10 How much VAT should be accounted for on completion?

24.10.1 Valuation

If you are caught by the anti-avoidance rule, you must account for VAT on the full value of the contract, less any amounts on which VAT has already become due because you received a payment or issued a VAT invoice. The full value of the contract includes retentions and disputed amounts.

24.10.2 Disputes

Where there is a dispute, or where it is not possible to know the exact value of the contract for any other reason, you should make a reasonable estimate of the value. If you are in dispute with your customer, you do not have to account for VAT on the full amount that you are claiming from your customer if you feel that you will most likely be forced in the end to settle for a lower amount. You should account for VAT on your best estimate of the amount that will eventually be agreed. (We recommend that you document the basis of your estimate, so that you can later show that it was reasonable.) Later, when the value of the contract is finalised, you will need to make an adjustment to the VAT paid.

25. Self-supply of construction services

25.1 When do I have to account for a self-supply charge?

If, for the purpose of your business (or your VAT group's business), you use your own labour to:

- construct a building,
- extend, alter or construct an annexe to a building such that the works increase the floor area by 10% or more, or
- construct any civil engineering work;

and

- the open market value of the work is £100,000 or more;

then you are deemed to be making a supply to yourself (known as a self-supply) and you must account for VAT on those services in your VAT return for the period in which you complete the work. But you do not account for a self-supply charge if the work would have been zero-rated.

25.2 Valuation

When valuing the supply you must include demolition work carried out at the same time or in preparation for any of the building work but exclude goods and materials, and services that would be zero-rated if supplied by a VAT registered person.

25.3 How do I account for VAT?

Input tax incurred on goods and services related to the self-supply charge can be deducted in full, subject to the normal rules.

When you become liable to account for the self-supply charge, you must declare output tax (as if you had made a supply). You can then deduct this as input tax (as if you had made the supply to yourself) to the extent that it relates to any other taxable supplies you make.

If the value of the self-supply is £250,000 or more you may, if the building is used to make exempt supplies, need to make subsequent adjustments to the amount of input tax you deduct. Further information can be found in Notice 706/2 *Capital goods scheme*.

25.4 VAT registration

If you are not registered for VAT, the value of the self-supply will make you liable for registration. You must notify HM Revenue & Customs of your liability to register when you know the work will be completed within the next 30 days. You may also register, on a voluntary basis, at an earlier time. Further information on VAT registration can be found in Notice 700/1 *Should I be registered for VAT?*

Do you have any comments?

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

**HM Revenue and Customs
CT & VAT, Property VAT Team
100 Parliament Street
London
SW1A 2BQ**

Please note this address is **not for general enquiries**. You should ring our National Advice Service about those.

If you have a complaint or suggestion

If you have a complaint please try to resolve it on the spot with our officer. If you are unable to do so, or have a suggestion about how we can improve our service, you should contact one of our Regional Complaints Units. You will find the phone number under 'HM Revenue & Customs' in your local phone book. You will find further information on our website at <http://www.hmrc.gov.uk>.

If we are unable to resolve your complaint to your satisfaction you can ask the Adjudicator to look into it. The Adjudicator, whose services are free, is a fair and unbiased referee whose recommendations are independent of HM Revenue & Customs.

You can contact the Adjudicator at:

**The Adjudicator's Office
Haymarket House
28 Haymarket
LONDON
SW1Y 4SP**

Phone: (020) 7930 2292

Fax: (020) 7930 2298

E-mail: adjudicators@gtnet.gov.uk

Internet: <http://www.adjudicatorsoffice.gov.uk/>