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Information

VAT on plants

The following information is taken from the Customs & Excise Web page and relates to their document reference 701/38. It can be downloaded at <http://www.hmce.gov.uk/bus/info/index.html>.

Notice 701/38

Seeds and plants (April 1999)

This notice replaces VAT Notice 701/38 (June 1993) and Updates 1, 2 and 3 to that edition. The guidance has been generally revised and updated.

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1. Introduction

This notice explains which supplies of seeds and plants can be zero-rated. There are separate VAT notices that deal with food for human consumption and food for animals.

1.1 General

The supply of plants grown to provide food for human or animal consumption, and the seeds or other means of propagation (spores, rhizomes etc) used to produce such plants, is zero-rated. However, if they are held out for sale as pet food, packaged as food for birds other than poultry or game or for a non-food purpose, the supply is standard-rated. Seeds and plants bought for their ornamental effect are generally standard-rated. This includes cut flowers.

1.2 What does "held out for sale" mean?

The term "held out for sale" used here means the way in which a product is described:

- either on its packaging or labelling;
- on invoices;
- in a catalogue or price list;
- in instructional material (whether supplied with the product or later);
- on notices or display signs at the point of sale;
- in advertisements;
- in leaflets; or
- any other form of promotional literature.

1.3 Law

The relevant law is Group 1 of Schedule 8 to the Value Added Tax Act 1994 which is reproduced at Appendix A.

2. Agricultural and horticultural crops

2.1 Scope of the relief

All crops that are specifically grown to produce food of a kind for human consumption or animal feeding stuffs are zero-rated. However, any crop that generally produces items that are not fed to humans or animals (that is, for "industrial" purposes) is always standard-rated. For example, evening primrose is grown for the extraction of its oil; tulips and hyacinths are grown and sold for ornamental purposes; Norfolk reed is grown for thatching material. The zero rate also applies to seeds, seedlings, crowns, spores, tubers and bulbs of edible vegetables and fruit.

2.2 Oilseed rape

Most oilseed rape is of the "OO" type, which means that the oilseed yields oil fit for human consumption as well as meal for animals. These "OO" varieties of oilseed rape, including the actual seeds and edible meal by-products, are zero-rated. However, some oilseed rape varieties give a high erucic acid content in the oil (known as "HEAR" varieties) and this is regarded as nutritionally undesirable in food for human consumption. The pressed oil is primarily used as an anti-corrosion agent and lubricant in mineral oil extraction and is standard-rated. As the residual meal can be used to feed ruminant livestock it is zero-rated when supplied for feeding purposes. The actual seeds of the HEAR varieties are used to plant for subsequent crops and as an animal feed and are zero-rated.

2.3 Linseed and flax

Varieties of the crop are grown either for its seeds and subsequent oil and residual meal, or for its flax fibre.

Linseed

As the predominant use of the oil is for industrial purposes (for example, for paint, varnish, linoleum) it is standard-rated, whilst the residual meal is largely used for incorporating into animal feed and can be zero-rated. The zero rate also applies to the actual seed when it is to be used as animal feed or for sowing.

Flax

These varieties are grown for the resulting fibre. Both the stems, which are processed into linen, and the left over woody portion, used for making paper, are standard-rated. The small yield of seeds is zero-rated when used as animal feed.

2.4 Trees and fruit-bearing shrubs

Plants, bushes and trees that are normally used in this country for the production of edible fruit are zero-rated. However, plants that are primarily grown for their ornamental effect (such as ornamental nursery stock including trees, shrubs, herbaceous plants, alpine and pot plants) remain standard-rated. Plants, seeds and fruit of a kind used for the production of perfumes, pharmaceutical products, insecticides, fungicides and so on are standard-rated. Appendix B gives a definitive list of plants, bushes and trees producing edible fruit, including nuts, that are zero-rated.

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2.5 Rootstock

Most rootstock is standard-rated irrespective of whether it is used in the growing of zero-rated or standard-rated plants and trees. However, cucumber and tomato rootstocks are zero-rated.

3. Herbs

3.1 Scope of the relief

Plants of species, which are generally accepted as reared primarily for culinary use, are zero-rated irrespective of how they are held out for sale. These species are listed at Appendix C.

3.2 Ornamental and culinary herbs

Plants, which, although not species supplied predominantly as culinary herbs, do have recognised culinary uses, may be zero-rated provided:

- they have been raised according to the conditions required by the Food and Environment Protection Act 1985 (in cases of doubt, you may need to supply documentary evidence of this); and
- they have been specifically held out for sale as culinary herbs (for example, described as such on invoices or in catalogues) and, where appropriate, displayed apart from ornamentals with other culinary herbs; and
- they are supplied in individual pots (not in bedding strips) of a size less than two litres; and
- (in the case of bay plants) they do not exceed 50 cm in height, nor have they been clipped, shaped or topiarized in such a way as to specialise them as ornamentals. These species are listed at Appendix D.

3.3 Medicinal herbs

Herbs supplied for medicinal rather than culinary use are not eligible for zero-rating as "food" and remain standard-rated, even if they have been raised under the same conditions as culinary herbs. This includes plants used in the preparation of food supplements, such as evening primrose and ginseng.

4 Seeds

4.1 Scope of the relief

All seeds that produce food of a kind for human consumption or animal feeding stuffs can be zero-rated. Examples are:

- vegetable seeds;
- seeds for producing culinary herbs; and
- wheat, barley and other agricultural seeds grown to produce food for human or animal consumption.

However, any seed that generally produces items that are not fed to humans or animals is always standard-rated, for example:

- seeds or bulbs for growing flowers;
- plants and trees mainly for ornamental effect; and
- agricultural crops for industrial/non-feed use.

However, there are exceptions and these are detailed in paragraphs 4.2 and 4.3 below.

4.2 Edible flowers

Appendix E gives an exhaustive list of flower seed varieties that can be zero-rated provided that they are held out for sale as yielding food of a kind used for human consumption.

4.3 Grass seed

Most grass seed is zero-rated because of the extensive use of grass as animal feed. This includes supplies to and by garden centres, local authorities and grass seed to be grown on set aside land. However:

Pre-germinated grass seed

This type of seed is not for the propagation of animal feed and is not eligible for the zero rate (liable at the standard rate with effect from 1 October 1995).

Turf

As with pre-germinated grass seed, turf is not used for the propagation of animal feed and is therefore standard-rated. For supplies of hay, straw and grazing rights see VAT Notice 701/15 Food for animals.

5 Miscellaneous

5.1 Plant-growing kits

Plant-growing kits or plant-starter kits typically consist of seeds, growing medium and some form of container, together with fertiliser and an instruction leaflet. Such kits are generally standard-rated regardless of whether the seeds are of a kind that would normally be zero-rated. But the kit is zero-rated if the seeds are zero-rated and

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- the standard-rated element of the kit (for example, growing medium, fertiliser and pot) accounts for less than 10% of the total cost, or
- the planting medium, which is impregnated with edible vegetable or fruit seeds, is no more than a means of simplifying the planting of the seeds (for example, peat cubes of less than 125cc impregnated with seeds, or thin layers of tissue incorporating seeds).

The VAT treatment of mushroom growing kits will depend on the type of container in which the kit is supplied. If the kit is supplied in a cardboard carton, the whole supply is zero-rated, as this is normal and necessary packaging. But if the kit is supplied in a plastic bucket or similar reusable container though, the spawn and the growing medium are still zero-rated and VAT must be accounted for on the value of the container and any other packaging costs. This is because it is a "mixed supply" of both standard-rated and zero-rated items. Notice 700 *The VAT Guide*, paragraph 3.2 gives more information about this.

5.2 Further help and advice

If you need further help or advice or more copies of Customs and Excise Notices, please contact your local Customs and Excise or VAT Business Advice Centre, as appropriate.

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Appendix A

Extract From Value Added Tax Act 1994 Schedule 8 Group 1 – Food

The supply of anything comprised in the general items set out below, except:
(b) a supply of anything comprised in any of the excepted items set out below.

General items

- | | | |
|----------------|----|---|
| Item No | 1. | Food of a kind used for human consumption. |
| | 2. | Animal feeding stuffs. |
| | 3. | Seeds or other means of propagation of plants comprised in item 1 or 2. |

Excepted items

- | | | |
|----------------|----|---|
| Item No | 6. | Pet foods, canned, packaged, or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs. |
|----------------|----|---|

Notes:

- (1) "Food" includes drink.
(2) "Animal" includes bird, fish, crustacean and mollusc.

Appendix B

Plants Producing Edible Fruit

Plants, bushes and trees commonly bought by farmers, horticulturists and gardeners for edible fruit production in this country are zero-rated (for this purpose fruit includes nuts). Plants, bushes and trees, which are generally purchased for the ornamental effect of their fruit or flowers, are standard-rated. The following is a list of those fruit producing plants that may be zero-rated. This list is not of examples but is a definitive list of those fruit producing plants that may be zero-rated.

Almond (not "flowering almond")	Gooseberry
Apple	Grapevines
Apricot	Hazel
Blackberry	Huckleberry
Blackcurrant	Loganberry
Blueberry	Medlar
Boysenberry	Mulberry
Bullace	Nectarine
Cherry (not 'flowering cherry')	Peach
Citrus trees (not ornamental varieties)	Pear
Cobnut	Raspberry plum (not 'flowering plum')
Common quince (not chaenomeles)	Redcurrant
Cowberry	Strawberry
Crab (only fruiting varieties)	Sweet chestnut
Cranberry	Tayberry
Damson	Walnut
Fig	Whitecurrant
Filbert	Wineberry
Gages	Worcesterberry

Appendix C

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Plants Eligible For Zero-Rating Irrespective Of How They Are Held Out For Sale

Common name	Latin name
Angelica	Angelica archangelica
Anise	Pimpinella anisum
Anise hyssop	Agastache anethiodora
Basil	Any plants of Ocimum genus
Borage	Any plants of Borago genus
Caraway	Carum carvi
Cardamom	Elettaria cardamomum
Cardoon	Cardoon bianco avorio
Celery wild	Apium graveolens
Celery wild alpine	Apium Australis
Chervil	Anthriscus cerefolium
Chicory	Cichorium intybus
Chives	Allium genus
Coriander	Coriandrum sativum
Cumin	Cuminum cyminum
Curry leaf	Chalcas koenigii
Dandelion	Taraxacum officinale
Dill	Anethum graveolens
Fennel	Foeniculum vulgare
Fenugreek	Trigonella foenum-graecum
Garlic	Allium sativum
Ginger	Zingiber officinale
Good King Henry	Chenopodium bonus-henricus
Horseradish	Cochlearia armoracia
Lemon grass	Cymbopogon citratus
Liquorice	Glycyrrhiza glabra
Lovage	Levisticum officinalis
Marjoram	All plants of the Origanum genus
Mint	All plants of the Mentha genus
Onion	All edible plants of the Allium genus
Orache	Atriplex hortensis
Oregano	Origanum dictamnus
Parsley	Carum petroselinum
Pennyroyal	Mentha pulegium
Rocket	Eruca sativa
Rosemary	All plants of the Rosmarinus genus
Saffron	Crocus sativus
Sage	Salvia officinalis
Salad burnet	Poterium sanguisorba
Savory	Plants of the Saturela genus
Skirret	Sium sisarum
Sorrel	Plants of the Rumex genus
Tarragon	Artemisia dracunculus
Thyme	All plants of the Thymus genus
Watercress	Nasturtium officinale

Appendix D

Plants With Significant Culinary Use Eligible For Zero-Rating If Reared Under Specialised Conditions And Held Out For Sale As Culinary Plants

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Common name

Alecost
 Alexanders
 Allspice
 Asafoetida
 Bay
 Bergamot
 Bistort
 Catmint
 Chamomile

 Comfrey
 Clove pink
 Clover
 Cowslip
 Curry plant
 Elder
 Feverfew
 Hop
 Hyssop
 Juniper
 Landcress
 Lavender
 Lemon balm
 Lemon verbena
 Marigold, pot
 Melilot
 Nasturtium, salad
 Pelargonium (scented)
 Purslane
 Rue
 Sweet Cecily
 Tansy
 Violet (sweet)
 Woodruff

Latin name

Tanacetum balsamita
 Smyrniolum olusatrum
 Pimenta officinalis ONLY
 Ferula asafoetida
 Laurus nobilis
 Plants of the Monarda genus
 Persicaria bistorta
 Nepeta cataria
 Anthemis nobilis
 Matricaria recutita
 All plants of Symphytum genus
 Dianthus carophyllus
 All edible plants of Trifolium genus
 Primula veris
 Helichrysum italicum
 Sambucus nigra
 Chrysanthemum parthenium
 Humulus lupulus
 Hyssopus officinalis
 Juniperus communis
 Barbarea praelox
 Any plants of the Lavendula genus
 Melissa officinalis
 Aloysia triphylla
 Calendula officinalis
 Melilotus officinalis
 Tropaeolum majus
 Scented plants of the Pelargonium genus
 Portulaca oleracea
 Ruta graveolens
 Myrrhis odorata
 Tanacetum vulgare
 Viola odorata and viola tricolor
 Asperula odorata

Appendix E**Seeds Producing Edible Flowers Eligible For Zero-Rating**

The zero rate applies to the seed varieties listed below where it is demonstrated that they are held out for sale as food of a kind used for human consumption. For example:

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- where a catalogue or similar is produced, a marking is given indicating the variety that is said to be edible; or
- where a catalogue or similar is not produced, information at the point of display indicating the variety that is said to be edible; and
- in relation to each variety, provision of further details of food usage supplied on customer's request; and
- in relation to each variety, provision of food-based information on seed packets (such as recipe ideas).

The seed varieties eligible for zero-rating provided they are held out for sale similar to the criteria above are as follows:

Common name

Bergamot
 Clove pink
 Lavender
 Nasturtium
 Pelargonium
 Pink
 Poppy
 Pot Marigold
 Sunflower
 Violets

Latin name

any of the Monarda genus
 Dianthus carophyllus only
 any of the genus
 Tropaeolum majus only
 all scented plants of this genus
 Dianthus carophyllus only
 any of the Papaver genus
 Calendula officinalis only
 any of the Helianthus genus
 Viola odorata and tricolor

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