

Installation of lifts – Extension of the zero rate
V20597 Friends of the Elderly v HMRC

Friends of The Elderly, a charity providing a permanent residence for the elderly, were successful in their appeal against HMRC's decision that architect's services relating to the installation of a new lift in a care home do not qualify for zero rating. HMRC argued that the words 'in the installation of a lift' in item 17 of Group 12 of Schedule 8 of VATA 1994 referred only to the physical act of installing the lift. However, the Tribunal was in agreement with the appellant's interpretation of the words in the legislation that the installation of the lift is the end result and, hence, the zero rating includes all the services necessarily performed in achieving that end result. The Tribunal Chairman stated "...this includes the architect's services, which are clearly necessary to the installation because without them the building that holds the lift could not have been designed or built."

The decision of the VAT Tribunal in the Friends of the Elderly case could potentially lead to refunds of VAT for charitable institutions, which have received zero rate installations of lifts. This case should apply to Registered Social Landlords and other Care Home providers, where the contractor has not charged VAT on the installation of a lift due to the issuing of a 'certificate' by the recipient of the services. The potential refund relates to professional services received in connection with the installation of the lift. The VAT legislation (VATA 1994, Sch. 8, Grp 6 Item 2) specifically excludes such professional fees from zero rating when a building is constructed, but Group 12, Item 17 (which provides for zero rating on the installation of a lift) does not explicitly exclude such fees. It uses the phrase, "the services necessarily performed in the installation of a lift"

The Tribunal found that architects services, in the Friends of the Elderly case, were 'necessarily performed' and could therefore benefit from zero rating.

What other services may benefit from zero rating?

Item 2 excludes the services of an "architect, surveyor or any person acting as a consultant or in a supervisory capacity" the decision would therefore appear to open up these services as candidates for zero rating too when supplied for the installation of a zero rated lift.

Will HMRC appeal?

There are a couple of avenues open to HMRC. They may appeal the case to a higher court and hope to win, or they may treat this as a 'rogue' decision and decline to apply it more generally, as a decision of the VAT tribunal does not set a precedent which may be relied upon.

What next?

Anyone who has incurred VAT on such fees in connection with the zero rated installation of lifts within the last three years should consider making a claim.