

When can live-work units be zero-rated?

Indirect Tax

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It is not uncommon for homes to be built with work facilities such as an office. These are accepted by HMRC as zero-rated (VATA 1994 Sch 8 Grp 5) where planning permission does not designate an area as working space. Current government policy encourages flexible working practices such as the integration of residential and commercial uses within the same unit. More commonly, permission to develop residential units is conditional on there being live-work units.

HMRC manuals (VCONST14210) state that a live-work unit is a property that combines a dwelling with commercial or industrial working space as a requirement of planning permission. Indeed, that a live-work unit cannot be zero-rated unless the dwelling element can be disposed of separately (in reference to VATA 1994 Sch 8 Grp 5 Note 2(c)).

Although the CIOT acknowledges there are circumstances in which a live-work unit will not qualify for zero-rating, we do not agree that all these units should automatically fail to meet the criteria and in fact may qualify for zero-rating in whole or in part.

It is our view that UK legislation can be construed that, where homes include minimal accommodation designed for work forming a single unit whose main purpose is a dwelling, the separate disposal test of Note 2(c) is irrelevant or at least leads to an apportionment. It seems anomalous to deny zero-rating simply because a unit has a designated space for someone to work from home. We believe that, where zero-rating does not apply, consideration should be given to reduced rate.

The CIOT's Indirect Taxes Sub-committee has previously raised this issue with HMRC asking for clarification and revised guidance but there has been little progress. We can report that it is still HMRC's intention to review this area and we are working with them to provide examples of current discrepancy and suggest clearer guidance.

We need members with experience of this issue to contribute their experience.

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