



## BRIEFING PAPER

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# VAT : zero-rating e-publications

By Antony Seely

## 1. Summary

Books, newspapers and magazines are one of a small number of goods and services that are charged VAT at a zero rate, and have been so since the introduction of the tax in 1973. By contrast electronic publications are subject to VAT at the standard rate, which is currently 20%. In his 2020 Budget speech the Chancellor Rishi Sunak announced that “from 1 December ... books, newspapers, magazines or academic journals, however they are read, will have no VAT charge whatsoever.”<sup>1</sup> At the time it was estimated that the cost of extending zero-rating would be £175m in its first full year.<sup>2</sup> Initially the Government planned to consult on the details of the legislation ahead of its implementation,<sup>3</sup> but on 30 April announced that the zero rate would come in from 1 May 2020, “in a boost to readers and publishers during the coronavirus outbreak.”<sup>4</sup>

## 2. Background

Generally VAT is charged on the supply of all goods and services, unless specifically exempt, either at the standard rate - currently 20% - or the zero rate; a small number of supplies are subject to VAT at 5% (for example, the supply of domestic fuel and power.)<sup>5</sup>

VAT law is consolidated in the *VAT Act 1994*. [Schedule 8 to the Act](#) sets out those supplies which are zero-rated, such as young children’s clothing and food, as well as books, newspapers and magazines. In the latter case, statutory provision for zero-rating is made by [group 3 to Schedule 8](#). Items 1 and 2 within this group are: “books, booklets, brochures, pamphlets and leaflets”, and “newspapers, journals and periodicals.” The remaining items in group 3 cover other types of publication, such as picture books, printed music and maps.

HMRC’s guidance on the scope of zero-rating states, “the words in Group 3 are used in their ordinary, everyday sense”:

This means they are restricted to goods produced on paper and similar materials such as card ... Most items qualifying for the zero-rating will be products of the printing

<sup>1</sup> [HC Deb 11 March 2020 c290](#)

<sup>2</sup> *Budget 2020*, HC 121, March 2020 p66 ([Table 2.1 – item 15](#))

<sup>3</sup> HM Treasury, *Overview of Tax Legislation & Rates*, March 2020 [para 2.21](#)

<sup>4</sup> HM Treasury press notice, [VAT scrapped on E-publications](#), 30 April 2020

<sup>5</sup> HMRC publish guidance on the VAT treatment of a variety of goods and services [on Gov.uk](#).

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industry (including items printed in Braille), but goods which are photocopied, typed or hand-written will, in some cases, also qualify. Goods containing text in other formats such as audio or video cassettes or CD Rom are standard-rated. This includes the storage and distribution of text by fax, e-mail, microfiche, or any similar process. Transcripts or print-outs made of such information are zero-rated if they are supplied in the form of books, booklets, brochures, pamphlets or leaflets ...

The supply of text by electronic transmission (including e-books), via the internet, or similar means is also standard-rated. Such supplies are of services, not of goods, and different VAT rules will apply to them (such as those on the place of supply of services).<sup>6</sup>

HMRC estimates that the annual cost of zero-rating books, newspapers and magazines is around £1.5 billion,<sup>7</sup> although, as has been noted in a written answer, this type of estimate “does not account for any behavioural effects (the resulting fall in demand) that would result from changes to the rate of value added tax.”<sup>8</sup>

Developments in technology have led to calls over the last few years for the scope of zero-rating to be extended to cover electronic publications.

In 2011 Tom Harris MP put down an EDM calling on the Government to bring forward “proposals to standardise VAT for books and printed papers, whether published in electronic or printed form, at the current rate of zero per cent”, on the grounds that, “e-books produced within other jurisdictions are not necessarily subject to similar taxes and therefore enjoy a huge competitive advantage” and “e-book publications is a growing industry which should be encouraged and supported within the UK.”<sup>9</sup> More recently it has been argued that the disparity between hard copy and digital forms disadvantages the blind and near-sighted, and that extending VAT relief could support literacy as children often read on digital devices.<sup>10</sup>

In the past Ministers have opposed extending zero-rating in part because it would be contrary to EU-wide rules on VAT; as Treasury Minister David Gauke stated in reply to a PQ in 2011 “under EU law, VAT on electronic books must be charged at the standard rate. A reduced rate cannot be applied to digital or electronic supplies, or supplies of text via the internet, as they are classed as supplies of services rather than physical goods. There is therefore no scope in the principal VAT directive to apply a reduced rate on e-books.”<sup>11</sup>

More generally, there are a number of difficulties with introducing any new VAT reliefs. First, VAT reliefs are not means-tested at all – so there is an argument for targeting them quite narrowly. Second, extending the scope of relief carries with it the risk that individuals might seek to exploit it, or that the boundary between what is eligible for relief and what is not becomes legally contentious. Notably in December 2019 the Upper Tribunal upheld an appeal by NewsCorp, the publisher of the *Times* and the *Sun*, that digital versions of these newspapers met the statutory test for zero-rating.<sup>12</sup> At the time

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<sup>6</sup> HM Revenue & Customs, [VAT Notice 701/10 Printed and similar matter](#), December 2016 para 2

<sup>7</sup> Source: HMRC, [Bulletin: Estimated cost of \(non-structural\) tax reliefs](#), October 2019 (see pp31-9)

<sup>8</sup> HC Deb 19 December 2011 cc985-5W

<sup>9</sup> [EDM 1270 of 2010-12, 12 January 2011](#). 52 Members signed this at the time. Some years before the issue was raised by the Select Committee on Science & Technology (see, *Scientific Publications: Free for all?*, 20 July 2004 HC 399 2003-04 para 86).

<sup>10</sup> These points were made in a Lords debate on the issue in December 2018: [HL Deb 6 December 2018 cc1114-6](#)

<sup>11</sup> HC Deb 20 December 2011 cc1159-6W. For more details on these rules see, [VAT : European law on VAT rates](#), Commons Briefing paper CBP2683, 17 January 2019.

<sup>12</sup> [NewsCorp UK & Ireland v HMRC \[2019\] UKUT 0404 \(TCC\)](#)

HMRC announced that it would appeal the decision to the Court of Appeal.<sup>13</sup> Third, there may be many candidates for VAT relief, and a risk to undermining the tax base if Ministers find that agreeing to one relief makes it hard not to agree to others. Clearly any extension in VAT reliefs would mean that the rate of VAT on everything else would have to rise, to ensure the tax still raised as much money as it does.

The relative importance of VAT to the Exchequer can be seen in the breakdown of tax receipts in the most recent *Economic & Fiscal Outlook* published alongside the 2020 Budget by the Office for Budget Responsibility. In 2019/20 VAT is forecast to raise £136.6 billion. Only income tax and National Insurance contributions raise more (£195.2bn, and £145.4bn respectively). Together these three taxes represent just under 2/3rds of all tax receipts.<sup>14</sup> As noted above, HMRC publish estimates of the cost of existing zero and reduced rates, which are considerable: for example, the zero rates on children's clothing, domestic passenger transport and food are estimated to cost £2bn, £5.6bn and £18.9bn respectively (figures are for 2019/20).<sup>15</sup>

In 2016 the European Commission launched a [review of EU VAT law](#), and in December that year it published proposals to allow Member States to align the VAT rates they set for e-publications, currently taxed at the standard rate in most Member States, with the more favourable regime currently in force for traditional printed publications. This Directive was agreed in October 2018; details were given in a press notice issued at the time:

On 2 October 2018, the Council agreed a proposal allowing member states to apply reduced, super-reduced or zero VAT rates to electronic publications, thereby allowing alignment of VAT rules for electronic and physical publications ...

Under the current VAT rules (directive 2006/112/EC), electronically supplied services are taxed at the standard VAT rate, i.e. minimum 15%, whereas publications on a physical support may benefit from non-standard rates.

For physical publications – books, newspapers and periodicals – member states currently have the option of applying a 'reduced' VAT rate, i.e. minimum 5%. Some have been authorised to apply 'super-reduced' VAT rates (below 5%) or 'zero' rates (which involve VAT deductibility).

The directive will allow member states that so wish to apply reduced VAT rates to electronic publications as well. Super-reduced and zero rates will only be allowed for member states that currently apply them to 'physical' publications.

The new rules will apply temporarily, pending the introduction of a new, 'definitive' VAT system. The Commission has issued proposals for the new system, which would allow member states more flexibility than at present in setting VAT rates.<sup>16</sup>

When the Commission first published these proposals, the Government expressed its support on the grounds that "the UK has long believed that Member States should have greater flexibility in setting domestic VAT rates at a level that suits their circumstances and needs", but did not propose zero-rating digital publications, simply adding that it agreed "that the proposal should not oblige Member States to change VAT rates for e-publications but rather give them the ability to do so should they see that as

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<sup>13</sup> HMRC, [Revenue and Customs Brief 1 \(2020\): VAT liability of digital publications - Upper Tribunal in News Corp and Ireland Ltd](#), 19 February 2020

<sup>14</sup> OBR, *Economic & Fiscal Outlook*, CP230, March 2020 p72 ([Table 3.3](#))

<sup>15</sup> HMRC, [Bulletin: Estimated cost of \(non-structural\) tax reliefs](#), October 2019 (see pp31-9).

<sup>16</sup> European Council press notice, [Electronic publications: Council agrees to allow reduced VAT rates](#), 2 October 2018

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appropriate.”<sup>17</sup> The Commission publishes a survey of VAT rates across all Member States, which confirms that several Member States have reduced VAT rates on e-books.<sup>18</sup>

Following this change in the EU VAT rules, the Publishers Association & the Professional Publishers Association published a report arguing that zero-rating should be extended this way, on the grounds of fairness, to simplify the law, and to boost the market.<sup>19</sup> The issue was the subject of a short debate in the Lords in December 2018. On this occasion Lord Young, speaking for the Government, acknowledged the case had been made for zero-rating e-publications, but gave no indication that the Government were actively considering this change.<sup>20</sup> Since then the Government’s position has been reiterated in answer to a series of PQs; for example,

**Asked by Steve Double :** To ask the Chancellor of the Exchequer, for what reasons ebooks are not zero-rated to protect the accessibility of knowledge.

**Answered by: Mel Stride :** Following changes to the EU Value Added Tax (VAT) Directive which took effect in December 2018, Member States may equalise the VAT treatment of physical publications and e-publications. The Government keeps all taxes under review, including VAT on e-publications. Any amendments to the UK VAT regime as it applies to physical publications and e-publications must be carefully assessed against policy, economic and fiscal considerations.<sup>21</sup>

The relevance of the EU-wide rules on VAT has receded, with the UK’s departure from the EU on 31 January 2020.<sup>22</sup> The UK is required to remain compliant with EU law, including VAT law, during the ‘transition period’ – the period over which the UK is to negotiate a new UK-EU relationship.<sup>23</sup> The Government has anticipated this being completed by 31 December 2020.<sup>24</sup> In his Budget speech on 11 March the Chancellor, Rishi Sunak, announced that the UK would introduce a new zero rate on sanitary products from 1 January 2021, another change in VAT rates that has been the subject of a long-standing campaign, and thus taking advantage of being outside the scope of these rules.<sup>25</sup> As noted, the Chancellor also announced in his speech that the Government would extend zero-rating to e-publications from 1 December 2020.<sup>26</sup> It was estimated that the cost of extending zero-rating will be £175m in its first full year.<sup>27</sup>

In the Treasury’s ‘Overview’ document published alongside the Budget report, it was stated that the Government would consult on the details of the legislation ahead of its implementation,<sup>28</sup> but on 30 April the Chancellor announced that the zero rate would come in from 1 May 2020:

Plans to scrap VAT on e-books and e-newspapers have been significantly fast-tracked in a boost to readers and publishers during the coronavirus outbreak, the Chancellor

<sup>17</sup> European Scrutiny Committee, [28th Report, HC 71-xxvi, 31 January 2017 para 11.12](#)

<sup>18</sup> European Commission, [VAT rates applied in the Member States of the European Community](#), July 2019 (see table VI [on p11 of this document](#))

<sup>19</sup> Frontier Economics, [Assessing the case for zero-rating VAT on digital publications, a report for the Publishers Association / Professional Publishers Association](#), October 2018. See also, “Time to axe the digital reading tax”, *Times*, 23 October 2018; [“Axe the reading tax’: book industry demands end to VAT on ebooks”](#), *Guardian*, 5 December 2018

<sup>20</sup> [HL Deb 6 December 2018 cc1114-6](#)

<sup>21</sup> [PQ254223-4, 22 May 2019](#). see also, [PQ233576, 21 March 2019](#); [POHL13350, 14 February 2019](#); [PQ206028, 15 January 2019](#); [PQ196811, 3 December 2018](#)

<sup>22</sup> For a narrative of events leading up to the UK’s exit see, *Brexit timeline: events leading to the UK’s exit from the European Union*, [Commons Briefing paper CBP7960](#), 24 January 2020.

<sup>23</sup> Letter from the Financial Secretary to the European Scrutiny Committee, [“EU legislative proposals on VAT”](#), 5 December 2018

<sup>24</sup> [Brexit next steps: The transition period, Commons Library Insight](#), 31 January 2020

<sup>25</sup> For more details see, [VAT on sanitary protection, Commons Briefing paper CBP1128](#), 17 March 2020.

<sup>26</sup> [HC Deb 11 March 2020 c290](#)

<sup>27</sup> *Budget 2020*, HC 121, March 2020 p66 ([Table 2.1 – item 15](#))

<sup>28</sup> HM Treasury, *Overview of Tax Legislation & Rates*, March 2020 [para 2.21](#)

announced today. Rishi Sunak said the zero rate of VAT will now apply to all e-publications from tomorrow (1 May 2020) – seven months ahead of schedule – potentially slashing the cost of a £12 e-book by £2 and e-newspapers subscriptions by up to £25 a year.

In support of the print newspaper industry, the government has also announced it will be spending up to £35 million on newspaper advertising over the next 3 months as part of its Covid-19 communications campaign to ensure the whole UK is aware of the latest government guidance and advice ...

On average publishers are reporting an increase of about a third in e-book consumption during the crisis, with some publishers reporting as much as a 50% increase. In the last seven days alone, subscriptions to TI media are up 200%, whilst Hearst's new subscribers were up more than 100% year-on-year across the second half of March.

The £35 million extra advertising revenue will be split between local, regional and national print media, and will be a vital boost to the media industry. These plans will be constantly reviewed over the next three months to ensure the campaign is as effective as possible.

Both the e-publications measure and the increased advertising spending are UK-wide.<sup>29</sup>

HMRC have published an impact assessment of this measure, which gives details of how the law will be amended ...

### **Current law**

Group 3 of Schedule 8 to the *Value Added Tax Act 1994* ("Group 3") provides for the zero rating of printed matter. Sections 30(4) and 96(9) of that Act give HM Treasury powers to make an order to amend the scope of Group 3 and the Notes to that Group.

The European Union (EU) vires for the extension of the zero rate to electronic publications are contained in Council Directive (EU) 2018/1713, which changed the scope of the EU's optional reduced rate provisions. This Directive came into force in December 2018. Where member States (including the United Kingdom (UK) during the Transition Period) have a reduced rate (or an equivalent zero rate) for supplies of printed publications, it gives them the option to extend that reduced or zero rate to supplies of electronic versions of those publications. The UK has decided to exercise this option to extend its maintained zero rate to supplies of certain specified electronic publications.

### **Proposed revisions**

Legislation will be introduced by statutory instrument to amend Group 3. Subject to certain exclusions (see next paragraph), the legislative changes will zero rate supplies of e-books, e-booklets, e-brochures, e-pamphlets, e-leaflets, e-newspapers, e-journals and e-periodicals (including magazines) as well as electronic versions of children's picture and painting books.

The exclusions referred to are to e-publications that are wholly or predominantly devoted to advertising or to audio or video content. The exclusions for video content and audible music are necessary to comply with the vires in Council Directive (EU) 2018/1713. The sale of e-audio books continues to be standard rated in UK law in line with government policy.

Legislation was introduced in the *Finance Act 2011* to counter avoidance schemes entered into by some businesses that artificially split supplies so that they could benefit from the zero rate for printed matter. The new legislation will ensure that businesses will not be able to enter into similar schemes when e-publications become zero rated.

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<sup>29</sup> HM Treasury press notice, [VAT scrapped on E-publications](#), 30 April 2020. See also, "Government brings forward VAT pledge to help ailing newspapers", *Financial Times*, 30 April 2020

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... and the anticipated Exchequer impact from bringing this change forward:

The bringing forward of the implementation date from 1 December 2020 to 1 May 2020 is expected to decrease receipts in the year 2020 to 2021. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the next fiscal event.<sup>30</sup>

Alongside this announcement HMRC have published detailed guidance on this change; two extracts are reproduced below, listing those items that will be zero-rated...

### **Items that are entitled to the VAT zero rate**

The following electronically supplied products are now eligible for the zero rate of VAT:

- books
- booklets
- brochures
- pamphlets
- leaflets
- newspapers
- journals and periodicals - including magazines
- children's picture and painting books

... and those that are not:

### **Items that are not entitled to the VAT zero rate**

There are some items that are not included in the publications eligible for the zero rate of VAT.

#### **Advertising**

If more than half of an e-publication is devoted to advertising, audio or video content, its supply will be standard rated for VAT purposes.

Example : An auction house sells e-brochures containing information about lots in a forthcoming auction. Since the e-brochure is predominantly advertising, its sale is standard rated.

#### **Audiobooks**

The extension only applies to the supply of electronic versions of books already zero rated in UK law. As such, zero-rating is limited to electronic versions of books that can be read or looked at. Supplies of audiobooks remain taxable at the standard rate whether supplied in a physical or digital format.

Example : A business supplies an e-audiobook that is narrated by a well-known actor. It is designed only to be listened to. Since this e-audiobook is wholly devoted to audio content, its supply will be standard rated for VAT purposes.

#### **Intellectual property**

Supplies of intellectual property, even if they are supplied electronically, are not supplies of e-publications and are always standard rated. Further, electronically supplied plans or drawings for industrial, architectural, engineering, commercial or similar purposes are specifically excluded in the legislation.<sup>31</sup>

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<sup>30</sup> HMRC, [VAT: zero rating e-publications](#), 30 April 2020. See also, HMRC, [VAT liability of supplies of electronic publications: HMRC Brief 3\(2020\)](#), 30 April 2020

<sup>31</sup> HMRC, [Zero rate of VAT for electronic publications](#), 30 April 2020. Apparently this guidance is to be incorporated into [VAT Notice 701/10](#) and the [VBOOKS](#) series of guidance by 31 July 2020.

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