Value Added Tax – zero-rating – static caravans in Group 9 of Schedule 8 to Value Added Tax Act 1994 – meaning of 'removable contents' – Item 4 of Group 5 of Schedule 8 - meaning of 'building materials' – meaning of 'fitted furniture'

[2014] UKUT 0132 (TCC)

FTC/20/2013

UPPER TRIBUNAL
(TAX AND CHANCERY CHAMBER)

BETWEEN:

THE COMMISSIONERS FOR HER MAJESTY' S REVENUE AND CUSTOMS

Appellants

- and –

COLAINGROVE LIMITED

Respondent

TRIBUNAL: The Hon Mrs Justice Rose
Judge Roger Berner

Jeremy Hyam, instructed by the General Counsel and Solicitor to HM Revenue and Customs for the Appellants

Roderick Cordara QC, instructed by PWC Legal LLP for the Respondent

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DECISION

The appeal of the Appellants IS ALLOWED IN PART

REASONS

1. This appeal raises the issue of how many of the contents of a static caravan fall to be zero-rated for VAT purposes and how many are subject to the standard rate of VAT. The Respondent ('Colaingrove') sells static caravans. The caravans are supplied to the purchaser with all the fixtures and fittings inside: wardrobes, a kitchen, carpets, a bathroom, light fittings and so forth. The First-tier Tribunal (Judge Charles Hellier and Mr Tym Marsh) was asked to deliberate on a list of 20 items commonly supplied inside the caravan ranging from venetian blinds to beds. In their decision dated 6 August 2012 they decided that some were zero-rated, some were standard-rated and for some items it would depend on how the item was fixed to the walls of the caravan and how much damage would be caused to the caravan if the item were removed.

2. The statutory route to discovering which items are zero-rated and which are not is a tortuous one. As the First-tier Tribunal said: "the legislative framework is beset by exceptions to exceptions to exceptions". The assessments which are the subject of this appeal span the period 1989 to 2008 but the legislation has remained constant for all relevant purposes over that time. We have based our findings, as did the First-tier Tribunal, on the legislation currently in force.

3. The starting point is Schedule 8 to the Value Added Tax Act 1994 ('the VAT Act') which sets out items to which zero-rating applies. Group 9 provides:

   "Item No.

   1. Caravans exceeding the limits of size the time being permitted for use on roads of a trailer drawn by a motor vehicle having an unladen weight of less than 2030 kg.

   2. Houseboats being boats or other floating decked structures designed or adapted for use solely as places of permanent habitation and not having means of, or capable of being readily adapted for, self -propulsion.

   3. ...

Note: This Group does not include --

(a) removable contents other than goods of a kind mentioned in item 3 of Group 5; or

(b) ..."

4. It was common ground that the reference in Note (a) to Item ***3*** was wrong. It should have been changed to "Item 4 of Group 5", when Group 5 was amended in 1995 by the addition of a new Item 3 which displaced the old Item 3 to Item 4.

5. Item 4 of Group 5 in Schedule 8 to the VAT Act ('Item 4') covers:

"4. The supply of building materials to a person to whom the supplier is supplying services within item 2 or 3 of this Group which includes the incorporation of materials into the building (or its site) in question."

6. The phrase 'building materials' in Item 4 is defined in some detail in Notes (22) and (23) to Item 4:

"(22) "Building materials", in relation to any description of building, means goods of a description ordinarily incorporated by builders in a building of that description, (or its site) but does not include –

(a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens;

(b) materials for the construction of fitted furniture, other than kitchen furniture;

(c) electrical or gas appliances, unless the appliance is an appliance which is –

(i) designed to heat space or water (or both) or to provide ventilation, air cooling, air purification, or dust extraction; or

(ii) intended for use in a building designed as a number of dwellings and is a door entry system, a waste disposal unit or a machine for compacting waste; or

(iii) a burglar alarm, a fire alarm, or fire safety equipment or designed solely for the purpose of enabling aid to be summoned in an emergency; or

(iv) a lift or hoist;

(d) carpets or carpeting material.

(23) For the purposes of Note (22) above the incorporation of goods in a building includes their installation as fittings."

7. In this judgment we adopt the same tags as the First-tier Tribunal adopted so that we refer to:

   a. Note (22) Group 5 Schedule 8 to the VAT Act as 'Note (22)'

   b. Materials that are within the definition 'building materials' for the purpose of Note (22) as 'ordinary building materials'.

   c. Materials that are outside the definition of 'building materials' for the purpose of Note (22) as 'excluded building materials'.

8. Thus, carpets and finished furniture are excluded building materials because they are taken outside the definition by subparagraph (a) and (d) of Note (22) whereas waste disposal units and fitted kitchens are ordinary building materials because they are added back into the definition by the proviso at the end of subparagraph (a) and by subparagraph (c)(ii).

9. Turning back to Group 9, Item 1, Note (a), the 'removable contents' of a static caravan are standard-rated unless they are goods of a kind mentioned in Item 4 and the kind of goods mentioned in Item 4 is 'building materials' as defined in Note (22). If they are ordinary building materials they are zero-rated even if they are removable contents.

The First-tier Tribunal's decision

10. The First-tier Tribunal set out its approach to the construction of the term 'removable contents' in paragraphs 37 onwards of the decision. They considered first how the task of construing the legislative provisions should be affected by the underlying policy goal of achieving parity of treatment for VAT purposes between people who buy a ready made house, people who commission the building of a house and people who buy a static caravan. The Tribunal concluded that, although that policy of parity of treatment may be the reason underlying the

creation of Group 9, the regime for caravans was different from that for houses. The words used must be construed in their own context and not in a way that attempts to achieve parity between different kinds of dwellings. That finding, with which we agree, is not challenged on appeal.

11. The Tribunal went on to look at the words ‘removable contents’ in context. They concluded:

    a. Since some items of a kind with building materials are clearly regarded as removable contents, the term ‘removable contents’ could not be limited to items which are usually referred to as chattels but must include some items that are incorporated into the building.

    b. However, not all kinds of building materials are necessarily ‘removable contents’ since building materials include the walls, roof, partitions, pipework and wiring etc of the caravan.

    c. The term must therefore include loose chattels but also some incorporated items or fixtures which are of a kind with building materials.

    d. The use of the word ‘contents’ rather than ‘items’ indicates that after removal, what is left behind must recognisably be a caravan and, in ordinary speech, the term ‘caravan’ is intended to mean something capable of habitation. Therefore the term ‘removable contents’ is restricted to those things whose removal does not make the caravan unfit for habitation.

12. The Tribunal summed up their conclusion in paragraph 58 of the decision where they said:

    > “As a result we conclude that the logic of the language of the provisions means that it is a necessary (but not sufficient) condition for something to be removable contents that, after its removal, what is left behind is a caravan fit for habitation. Thus we would not regard as removable contents: lavatories, washbasins, kitchen sinks, walls, partitions, windows, doors, lighting fixtures and items which were necessary for safety and structural suitability (whether or not they were of a kind with building materials).”

13. The Tribunal then considered the ‘ordinary meaning’ of the term removable contents and concluded that ‘removable’ implied a limited degree of fixation so that the item could be removed with simple tools such as a screwdriver rather than a sledgehammer and chisel and without causing significant damage to the structure of the caravan. They regarded damage as significant if it was ‘damage of

the sort that would perturb an ordinary reasonable person using the caravan': see paragraph 60.

14. Having set out the two-fold test (namely: does the removal of the item still leave a habitable caravan and how easily can the item be removed) the Tribunal considered each item on the list of 20 items and divided them into three classes:

    a. Items that are clearly removable contents and not building materials such as venetian blinds, the washing machine and the three piece suite;

    b. Items where the Tribunal could not assess how easily removable they were and hence where it concluded that the item would be removable contents if it were easily removable but not otherwise, such as the wall mirror, the picture and various storage units;

    c. Items which were not removable contents either because their removal would not leave a habitable caravan (for example removal of the double oven and hob would leave exposed wires or pipes) or because it would cause significant damage to the structure (such as the glued down carpets).

15. There was one further item (item 8) referred to as 'three door cupboard' on which the Tribunal was unable to reach a conclusion because they were not sure how the photographs they were shown married up with the description of the item in the report provided by Colaingrove: see paragraph 63(8) of the Decision. We have also left that item out of account.

16. The Tribunal then considered whether any of the items they regarded as removable contents were 'of a kind' with building materials mentioned in Item 4 of Group 5 as defined in Note (22). They considered that the words 'of a kind' indicate that the homologue of building materials is intended to be re-imported into zero-rated caravan's contents by this phrase. The words thus "require the identification of those things which fall into Note (22) and their translation into the caravan world".

17. Of the items that they regarded as removable contents (and hence *prima facie* outside the zero-rating), the ones which they then considered in detail were those which might or might not be fitted furniture. If they concluded that the item **was**

fitted furniture, that meant that it would be standard-rated (provided that it was in fact easily removable and hence 'removable contents') because it was excluded building material by virtue of Note (22) (a) or (b). If they concluded that the item was **not** fitted furniture, then that meant that the item would be zero-rated whether or not it was easily removable because it was ordinary building materials.

18. The Tribunal interpreted the phrase 'fitted furniture' having regard to the decision in *Customs and Excise Commissioners v McLean Homes Midland Ltd* [1993] STC 335 which we describe later. They concluded that a number of items were fitted furniture and hence were standard-rated, assuming that they were removable contents (such as the wall mirror and the wall mounted corner television unit), and some were not fitted furniture and hence were zero-rated.

19. Colaingrove has not appealed against the Tribunal's conclusion that certain items are standard-rated, that is those items which are removable contents and which either are not of a kind with building materials at all or are excluded building materials. HMRC has appealed on the grounds that the Tribunal erred in its interpretation of 'removable contents' such that the two-fold test applied by the Tribunal was wrong. They contend that all 19 of the items are removable contents and that it does not matter how easy or difficult it is to remove them. They contend further that the Tribunal's assessment of whether some of the removable contents were fitted furniture was also flawed and that all the items considered by the Tribunal in this respect should have been held to be fitted furniture. HMRC contend therefore that all 19 items assessed should be standard-rated.

The meaning of 'removable contents'

20. In our judgment the First-tier Tribunal was wrong in devising the two-fold test that it applied to determining whether the 19 items were 'removable contents' within the meaning of the Note to Group 9. We do not accept that it is necessary to consider whether what is left once an item has been removed is a 'habitable' caravan or that it matters how easy or difficult it is to remove the item. No-one is going to remove these items from the caravan. The exercise in statutory interpretation is simply the theoretical one of apportioning the contents of the caravan into those which are zero-rated and those which are standard-rated.

21. For this purpose it is not necessary to pull apart the different elements of the statutory language and view each of them in isolation. We agree with Mr Hyam who appeared for HMRC that it is important to look at what he described as 'the composite mechanism' for deciding what is zero-rated and what is standard-rated. That composite mechanism provides that zero-rating applies to the caravan incorporating items that are of a kind with ordinary building materials. It is true that what is zero-rated must be a caravan in the sense of being self-contained living accommodation. The question of what amounts to a caravan was considered by the VAT Tribunal in *University of Kent v Customs and Excise Commissioners* (2004) Decn Number 18625 in the context of student accommodation provided by the University in the form of Lodja Sleep Units located in the car park. The Commissioners argued that a purposive construction of the term 'caravan' dictated that the structure in question must be akin to a dwelling. The Tribunal posed the question "What characteristics do "caravans" need to share with "houses" in order to qualify for similar treatment?' They held that the answer to this was found in applying a 'self-contained living accommodation test'. They found that the Lodja units did not qualify because they were not suitable for either cooking or eating.

22. There are two points that we draw from the *University of Kent* case. First, the Tribunal there did not apply test of fitness for habitation as the First–tier Tribunal did in this case. We consider that a fitness for habitation test introduces an unhelpful additional, subjective, element into the construction of the provisions and that there is no justification for it in the statutory wording. Secondly the Tribunal in *University of Kent* considered the question of whether the caravan was self-contained living accommodation by looking not just at the shell of the caravan that is left once all the removable contents have been stripped out but at the unit as a whole. In our judgment the First-tier Tribunal in this case erred in holding that the relevant question was whether the caravan remained habitable once all the removable contents had been hypothetically removed. The Note to Group 9 does not contemplate the removal of all 'removable contents' but only those which are not also of a kind with building materials. We therefore reject Colaingrove's submission that the effect of HMRC's construction of the

legislation is to extend zero-rating to caravan shells which are "uninhabitable structures on the verge of collapse". There is no need, in our judgment, to envisage a caravan without any removable contents, since that is not what is zero-rated. What is zero-rated is the caravan incorporating all those removable contents which are ordinary building materials. That is not to say that all items that are of a kind with building materials are necessary in order to make a caravan into a dwelling. But the legislation operates on the basis that the caravan shell together with the zero-rated ordinary building materials comprises a caravan for the purposes of the Note to Group 9.

23. The First-tier Tribunal relied in part on the adjacent description in Group 9 of a houseboat as a place of 'permanent habitation' as indicating that a caravan must also be habitable. In our judgment, the reference to 'permanent habitation' in the definition of a houseboat is intended to distinguish between boats that are lived in during their sea-going or river-going journeys and boats that are moored and rendered immobile to serve as permanent dwellings. It does not import a test of habitability into the definition of 'houseboat' and there is no reason to read any such test across into the definition of 'caravan'.

24. Although we agree with the Tribunal that the use of the word 'contents' implies that there must be a container that is not contents, we do not see it is necessary to load the word 'removable' with as much significance as the Tribunal did. The use of the word 'removable' in our view simply confirms the distinction to be drawn between the contents and the container. We regard anything that is introduced into the core construction or shell of the caravan as inherently removable and hence as removable contents. Further, we hold that the quality of removability is a quality that is inherent in the nature of the item itself. It is not dependent on the stage at which it is introduced into the caravan shell or on any other factor that may make it more or less difficult to remove. Thus a mirror fixed to the wall (rather than comprising the wall itself), carpets, ovens, settees, beds, kitchen work surfaces are all inherently removable contents of a caravan because they are items that have been incorporated into the shell of the caravan and can therefore be un-incorporated or removed. We see no reason to descend into greater detail as to how they are fixed to the wall, what tools would be needed to remove them or

how much damage would be done to the fabric of the caravan if they were removed.

25. On the contrary, we accept the points made by Mr Hyam that the First-tier Tribunal's test creates great uncertainty as to, for example, the level of skill to be assumed on the part of the person hypothetically removing the removable contents and hence damaging the caravan to a greater or lesser degree (is it a skilled caravan fitter, the man on the Clapham omnibus or some other construct?). Further, this test is an invitation to caravan manufacturers to manipulate the provisions by choosing to glue or solder items into the caravan in a way which makes their removal more difficult in the hope that this will prevent them being 'removable contents' and hence result in them being zero-rated. That cannot be right.

26. Both parties referred to the need to ensure that the zero-rating applied to caravans and their contents did not extend beyond what was originally permitted and preserved by Article 28(2)(a) of the Sixth VAT Directive. That provision authorises EU Member States to derogate from the obligation to impose VAT by maintaining in force zero-rating for items that were zero-rated as at 1 January 1991. The zero-rating must be justified on clearly defined social reasons (in this case, affordable housing) and operate for the benefit of the final consumer: see Case C-251/05 *Talacre Beach Caravan Sales Ltd v Customs & Excise Commissioners* [2006] ECR I-6284. Mr Hyam argued that Colaingrove's submissions would result in fewer items being regarded as 'removable contents' and therefore more items being zero-rated than had been envisaged when the zero-rating was introduced. He referred us to the Notes on Clauses from the 1970s discussing the fact that 'some but not all contents' of caravans were zero-rated. The relevant note in the Notes on Clauses refers to the exclusion from zero-rating of removable contents other than 'materials, and builders' hardware, sanitary ware and other articles of a kind ordinarily installed by builders as fixtures in houses". The note goes on:

> "This is to keep the treatment of caravans in line with new houses. Caravans leave the production line fully furnished including items such as cookers, refrigerators, and even in some cases three-piece suites. The effect of the

> zero-rate will be that such items will be taxable even if sold as part of the caravan's contents"

27. Mr Hyam said that the test applied by the First-tier Tribunal must be wrong since it resulted in the oven being zero-rated whereas it was clear from these early Notes that that was not the intention. Hence the First-tier Tribunal's test wrongly resulted in an extension of zero-rating from the position in 1991.

28. Mr Cordara countered with his own argument that the wide definition of 'removable contents' put forward by HMRC risked going beyond what was permissible under EU law. He noted that the scope of zero-rating appears to have expanded over the years, particularly as a wider range of electrical appliances have been treated as ordinary building materials (and hence zero-rated) because of the inclusion of air conditioning units, burglar alarms and waste disposal units in Note (22). He argues that the inclusion of a requirement that the caravan is still habitable once all removable contents have been stripped out helps ensure that the zero-rating does not extend too far and does not include uninhabitable caravans that are outside the social reason of increasing affordable housing which justifies the zero-rating.

29. We do not gain much assistance from considering the stand-still provisions under the Sixth Directive. We do not see how the Tribunal's habitability test cures the problem - if there is a problem - caused by the more recent inclusion of waste disposal units and burglar alarms in the zero-rated ordinary building materials. The revised Note (22) has been in operation for house purchases for many years and it is not appropriate to give the wording of Group 9 a strained meaning on the supposition that the expanded range of electrical appliances now treated as ordinary building materials goes beyond what is permissible. Conversely, we do not accept that we must work backwards from the indication in the Notes on Clauses that cookers should not be zero-rated and construe the current provisions in a way which ensures that is the end result. The statutory words must be interpreted without any particular outcome for any particular item in mind.

30. We therefore conclude that the First-tier Tribunal erred in the way it applied the test for whether items are removable contents. In our judgment, all 19 items considered in their decision are removable contents for the purpose of Group 9.

Are some of the removable contents also 'fitted furniture'?

31. The Tribunal considered whether a number of the items that they thought were or might be removable contents were 'fitted furniture' for the purposes of Note (22). If they are fitted furniture then they are excluded building material and therefore not of a kind with building materials for the purposes of Note (a) in Group 9 – fitted furniture (other than kitchen furniture) is standard-rated.

32. In the present case, the First-tier Tribunal had a great deal more material before it during the course of a four day hearing than we had before us in this appeal. They had the benefit not only of the photographs that we have seen but oral evidence from one of Colaingrove's employees and expert evidence from rival structural engineers instructed by the parties. The different views of the witnesses were summarised in a Scott Schedule.

33. We bear in mind what the Court of Appeal said in *Revenue and Customs Commissioners v Procter & Gamble UK* [2009] EWCA Civ 407:

> "For it is the Tribunal which is the primary fact finder. It is also the primary maker of a value judgment based on those primary facts. Unless it has made a legal error in so doing (e.g. reached a perverse finding or failed to make a relevant finding) or has misconstrued the statutory test it is not for an appeal court to interfere".

34. We agree with Mr Cordara that the test applied by the First-tier Tribunal here is a multi-factorial test and that we should be slow to interfere with the Tribunal's conclusions. It is important to look at the way the Tribunal approached this aspect of the case and see whether there is an error of law there.

35. How then did the Tribunal approach the question of whether removable contents were also fitted furniture? The Tribunal considered the case of *Customs and Excise Commissioners v McLean Homes Midland Ltd* [1993] STC 335. That case concerned whether a built-in wardrobe the sides of which comprised in part the

outer and inner walls of the house and in part doors and hanging rails could be regarded as fitted furniture. The tribunal had held that they were not ‘furniture’ and were therefore not ‘fitted furniture’ but that they were cupboards forming part of the fabric of the building adapted by the insertion of a shelf and hanging rail for the storage of clothes. On appeal the High Court upheld the tribunal’s decision. Brooke J noted that the words ‘fitted furniture’ were simple English words that should be given their natural and ordinary meaning. At page 341, he said that:

> “… whether something was an item of furniture or not was very much a matter of impression. It was quite impossible to characterise an annexe or closet or a cupboard either as being furniture or as not being furniture without considering whether, according to the natural and ordinary meaning of the words in the context of the statute being interpreted, it could reasonably be described as furniture or not. This was a decision for the tribunal of fact. The Tribunal had no doubt about its finding. It is clear that [the commissioners] disagree with its finding, but in my judgment this is not a case in which I could possibly hold that a reasonable tribunal which was reasonably directing itself on the law and the facts could not have come to the conclusion that this was not fitted furniture.
>
> … It may very well be that there are borderline cases as to whether something is furniture or not furniture. Most things fall clearly one side of the line or the other. But in a case like this, where the builders of the house have designed the house so that it has these spaces in which clothes can be bung and so on, in my judgment, the scheme of this legislation is that it is for the tribunal of fact to decide whether or not it is fitted furniture however inconvenient it may be, … that there may be a possibility that different tribunals of fact may reach different conclusions of fact…”

36. Mr Hyam submitted that despite the force of Brooke J’s comments in *McLean Homes* and despite the First-tier Tribunal’s much more detailed analysis of the facts, we should overturn their findings on whether particular items were fitted furniture or not. Mr Hyam argued that the Tribunal’s analysis of this issue was ‘infected’ by its errors in construing ‘removable contents’ because the Tribunal still had in its mind the question of ease or difficulty of removal of the items and the question of the habitability of what remained after the items were removed. Those considerations were not legitimate factors. Mr Hyam invited us to look at photographs of some of the cabinets examined by the First-tier Tribunal and to conclude that they so obviously look like fitted furniture that the Tribunal must have applied the wrong test to conclude that they were not.

37. We do not consider that that is a legitimate approach for the Upper Tribunal to take. The photos must have made the same first impression on the First-tier Tribunal as they made on Mr Hyam or on us. However, the Tribunal did not base its decision on that first impression but took into account far more evidence than was available to us. That additional evidence clearly cancelled out the first impression made by the photographs and led them to conclude that the cupboards were not fitted furniture. It would be quite wrong for us to sweep aside the Tribunal's careful analysis and replace it with our own conclusion based on brief perusal of only one element of the evidence that the Tribunal considered.

38. We have looked carefully at the Tribunal's reasoning as to whether items are or are not 'fitted furniture'. We can see no signs of the 'infection' asserted by Mr Hyam. On the contrary, the Tribunal's analysis seems to us entirely uncontroversial. Having considered *McLean Homes* the Tribunal set out the factors that were relevant to its determination having regard to the relevant legal authorities. Those factors were whether an item is part of the building rather than something attached; the type of function which the item performs; the complexity and sophistication of the design or construction of the item; the fact that items that furnish a room are not necessarily 'furniture' and finally the impression given by looking at the item in situ. They then applied those factors to nine different items and found that three items were fitted furniture and six were not.

39. We note that in respect of some of the items the Tribunal noted whether or not the item 'looked like part of the caravan'. We have considered whether this is a sign of the 'infection' to which Mr Hyam referred and whether the Tribunal was thereby importing something of the element of the 'removable contents' test that referred to whether what was left of the caravan once the item had been removed was still habitable – an element of the test that we have found to have been in error. We are satisfied that that was not what the Tribunal had in mind at all. We can see nothing to justify our interfering with the Tribunal's conclusions on whether these nine items were fitted furniture or not.

Disposition

40. Our conclusions are that the Tribunal erred in concluding that some of the 19 items were not removable contents or were only removable contents if they could be easily removed from the caravan. In our judgment, all 19 items are 'removable contents' within the meaning of the Note to Group 9.

41. There are three items where the First-tier Tribunal concluded that the item was not removable contents and hence held that it was zero-rated without needing to consider whether the item was ordinary building materials. Having held that these items are removable contents, we must go on to consider whether they are of a kind with building materials:
    a. The carpets. These are incorporated into the caravan for the purpose of applying Note (22) but are excluded from building materials by subparagraph (d). These should therefore be standard-rated.
    b. The oven and hob. Again, these are clearly are incorporated into the caravan for the purpose of applying Note (22) but are excluded from building materials because they are electrical appliances within sub-paragraph (c) and are not within sub-paragraphs (i) – (iv). These should therefore be standard-rated.
    c. Kitchen work surface. This is incorporated into the caravan for the purposes of applying Note (22) and falls within the scope of ordinary building materials because it is furniture designed to be fitted in kitchens within the proviso to sub-paragraph (a). It is therefore zero-rated.

42. HMRC's appeal must be allowed in respect of carpet, the oven and hob and those items where standard-rating was held to apply only if the item were easily removable because they were excluded building materials.. All those items are, in our judgment, standard-rated regardless of how they are fixed to the wall because they are removable contents not of a kind with building materials.

43. The Tribunal did not err in concluding that six items were not fitted furniture, were therefore ordinary building materials and therefore zero-rated because they fell outside the category of removable contents that are excluded from zero-rating by the Note to Group 9. HMRC's appeal in relation to those items must be

dismissed since the outcome arrived at by the First-tier Tribunal accords with our conclusion.

44. Below is a table which shows in emphasis those answers which are different from the First-tier Tribunal's answers as a result of our conclusions.

Item	Removable contents?	Of a kind with building materials ordinarily incorporated?	Fitted furniture?	Standard or zero-rated? S or "0"
1. Corner TV cupboard	***Y***	Y	Y	***S***
2. Venetian Blind	Y	N		S
3. Headboard	Y	N		S
4. Above bed Bedroom unit with headboard	***Y***	Y	N	0
5. Bedroom storage unit	***Y***	Y	N	0
6. 3 piece suite	Y	N		S
7. Wall mirror	***Y***	Y	Y	***S***
8. three door cupboard	?	y		?
9. Two door cupboard	***Y***	Y	N	0
10.Garment storage	***Y***	Y	N	0
11. Washing machine	Y			S
12. Picture	Y	N		S
13. Bathroom cupboard	***Y***	Y	N	0
14. Carpet	***Y***	***N***		***S***

15. Headboard and above bed storage	***<u>Y</u>***	Y	N	0
16. Fitted bed	Y	N		S
17. Settee	Y	N		S
18. Oven and Hob	***<u>Y</u>***	***<u>N</u>***		***<u>S</u>***
19. TV corner unit	***<u>Y</u>***	Y	Y	***<u>S</u>***
20. Kitchen work surface	***<u>Y</u>***	***<u>Y</u>***	***<u>N</u>***	0

Signed

Mrs Justice Rose   Judge Berner

RELEASE DATE 21 March 2014