

VAT status of poppadoms and impact on a farm shop

Author: Julie Butler FCA, Founding Director, Butler & Co

Published: 26 Nov 2025

Confectionary or food?

As shown by the 'Jaffa Cake' and 'marshmallow' VAT status sagas, the charging of VAT on 'marginal' food supplies can cause ramifications in the confectionary industry with implications for farming. In 'Walkers Snack Food Ltd v CRC' in the Upper Tribunal, the 'Sensations Poppadom' came under question as to whether it was zero or standard-rated. Some might argue that the name 'Walkers Snack Food' does not promote zero-rated food. And who doesn't love all those products. For the farm shop that acts as village shop and supplier of 'goodies' for all the farm diversified activities of campsites, farm walks and trekking, these products can all be necessary supplies.

With the growth of the farm shop and the diversification of the farm shop to handy store supplies, the VAT status of the Jaffa Cake, marshmallow and poppadom is key.

Sensations Poppadoms

Walkers Snack Foods, the subsidiary of US food giant PepsiCo, claims the Sensations Poppadoms that it produces fall within one group of the VAT definitions, which means they should be treated as zero-rated food. However, HMRC disagreed, arguing that, because the products are made from potatoes and packaged as a snack, they should be treated as standard-rated for VAT purposes.

Walkers claimed the poppadom should be zero-rated because the key ingredient was gram flour. HMRC said they were standard-rated as a product similar to potato crisps – they could be consumed without any further preparation. On the ingredients, it said potato granules formed 18%, with another 18% being potato starch, and, as such, the product fell within the term 'potato' for the purpose of VATA 1994, Sch 8 Group 1 excepted item 5 – which lists the exceptions to the zero-rating legislation for food and drink. The First-tier Tribunal (FTT) dismissed Walkers' appeal to have the very famous (and highly enjoyable) Sensations Poppadoms classified as a zero-rated food, as opposed to a standard-rated snack.

Potato and potato granules

The matter was then appealed to the Upper Tribunal. On Walkers' assertion that the FTT had erred in its finding that the term 'potato' includes 'potato granules,' the Upper Tribunal found that the FTT was 'more than entitled to do so.' The judges could see no basis on which the FTT's decision could be called into question – its finding that the words 'made from potato' could extend to products made from potato granules was neither 'untenable' nor a misapplication of the law to the facts.

Like so many VAT cases this one was very fact based. Judge Anne Fairpo at the FTT examined two flavours, Lime and Coriander Chutney and Mango and Red Chilli Chutney, and found they contain 17.5-18% potato granules, 17.5-18% potato starch, and approximately 4.25% modified potato starch. Walkers argued that its Sensations Poppadoms were designed to complement Indian meals and that potato crisps are unlikely to be dipped or eaten as an accompaniment to a meal. Judge Fairpo ruled in January 2024 that Walkers Sensations Poppadoms 'are similar to potato crisps' and sold as such.

Therefore, they are not eligible for the zero-rated VAT. The crisps giants sought to appeal this decision to the Upper Tax Tribunal; however, the two judges stood by the FTT decision.

The view of the Upper Tribunal

On whether the amount of potato included in the product was enough to say the product was made from potato, the Upper Tribunal agreed with the FTT that it was. Taken together, the product had a combined content of potato – granules and starch – of about 39% to 40%. This was 'significant' and about double the amount of the next largest ingredient. Looking at whether the product was similar to a potato crisp, the Upper Tribunal said it was clear this was a question of degree. It accepted Walkers point that brand names were not relevant; however, the fact that a product might customarily be called a poppadom did not 'in principle' prevent being similar to a potato crisp, which in reality is how they are generally consumed. The judges agreed with the FTT that a range of flavours was not a distinguishing feature, given the range of flavours of potato crisps was so wide. They also acknowledged its point that the question was not whether the product was similar to normal sized poppadoms but whether it was similar to a potato crisp. The fact that the Sensations Poppadom was similar to the former did not prevent it being similar to the potato crisp.

The Upper Tribunal therefore dismissed the appeal by Walkers. This debate of zero-rated 'food' v standard-rated 'snack' might roll on and on like the Jaffa Cake. The key point is the VAT advantage that Walkers would obtain by obtaining zero-rating classification. Many consumers producing a curry meal might use these poppadoms to accompany the meal but in reality they are very generally used as a snack and cannot escape with zero-rate. This case raises a number of interesting points for tax advisers. Firstly, how costly it is to go to tax tribunal and how giants like Walkers can afford such a cost. Secondly, the complexity of farm VAT at every level, including at the food production stage and running the risk of losing zero-rated status.

Comparison to the marshmallow

The 'Mega Marshmallow' case was upheld in the Upper Tribunal as zero-rated. It is with some disappointment that we report that this case was lost at the Court of Appeal. VATA 1994, Sch 8 group 1 covers the zero-rating of food items, but exceptions include items of confectionary – note (5) confirms that confectionary includes 'chocolates, sweets and biscuits.'

HMRC's appeal was allowed by the Court of Appeal and the case remitted to the FTT. The marshmallow does seem to be the new Jaffa Cake, which, at a difficult time for farming, does not make matters any easier for farmers struggling with so many other complexities. The fact that the marshmallow case went all the way to the Court of Appeal showed HMRC's tax policy to keep the definition of such items as standard-rated as the VAT collection is very high.

*the views expressed are the author's and not ICAEW's

Supplied by Julie Butler FCA, Founding Director of Butler & Co Alresford Limited, Bennett House, The Dean, Alresford, Hampshire, SO24 9BH. Tel: 01962 735544, email: j.butler@butler-co.co.uk, website: www.butler-co.co.uk.

Julie Butler FCA is the author of Tax Planning for Farm and Land Diversification (Bloomsbury Professional), Equine Tax Planning ISBN: 0406966540, Butler's Equine Tax Planning (3rd edition) (Law Brief Publishing) and Stanley: Taxation of Farmers and Landowners (LexisNexis), and editor of Farm Tax Brief.