

BINDING GENERAL RULING (VAT) 38

DATE: 23 January 2017

ACT : VALUE-ADDED TAX ACT 89 OF 1991
SECTION : SECTIONS 11(1)(j) AND 13(3), PARAGRAPH 7(a) OF SCHEDULE 1, AND ITEMS 12 AND 13 IN PART B OF SCHEDULE 2
SUBJECT : THE VALUE-ADDED TAX TREATMENT OF THE SUPPLY AND IMPORTATION OF VEGETABLES AND FRUIT

Preamble

For the purposes of this ruling –

- **“BGR”** means a binding general ruling issued under section 89 of the Tax Administration Act 28 of 2011;
- **“catering services”** means the services of providing people with food and beverages at social events, gatherings, conferences or similar events;
- **“Item”** means an Item in Part B of Schedule 2 to the VAT Act;
- **“section”** means a section of the VAT Act;
- **“similar establishments”** includes, but is not limited to –
 - (a) in the case of restaurants –
 - (i) a restaurant section in a store;
 - (ii) hotels;
 - (iii) guest-houses;
 - (iv) hospitals, and
 - (b) in the case of stores –
 - (i) supermarkets;
 - (ii) hypermarkets;
 - (iii) wholesale stores; and
 - (iv) all other kinds of grocery stores;
- **“VAT”** means value-added tax;
- **“VAT Act”** means the Value-Added Tax Act, No. 89 of 1991; and
- any other word or expression bears the meaning ascribed to it in the VAT Act.

1. Purpose

This BGR sets out the VAT rate applicable to the supply and importation of vegetables and fruit, and withdraws BGR (VAT) 18 dated 27 March 2013 “The Zero-Rating of Various Types of Dates”.

2. Ruling

This ruling constitutes a BGR issued under section 89 of the Tax Administration Act 28 of 2011 insofar as it relates to **2.1** to **2.3**.

2.1 Zero-rated supplies

The supply of vegetables and fruit that have not been cooked or treated in any manner except for the purpose of preserving such vegetables and fruit in their natural state, is zero-rated under section 11(1)(j) read with Item 12 and Item 13 respectively.

Fresh and frozen vegetables and fruit supplied in the following manner are regarded as not having been “treated” as envisaged in the said Item numbers, and therefore qualify for zero-rating:

- Cut (including vegetables and fruit cut into specific shapes)
- Diced
- Sliced
- Shredded
- Crushed
- Minced
- Pureed
- Peeled
- De-pitted
- Compressed

Subject to **2.2**, the aforementioned zero-rating applies regardless of whether the vegetables and fruit are sold individually (for example, a punnet of strawberries or a pocket of potatoes) or mixed (for example, mixed diced carrots and potatoes or mixed chopped strawberries and kiwi fruit).

Frozen vegetables¹ and fruit that have been blanched in hot water are regarded as having been “treated” for the purpose of preserving the vegetables and fruit in their natural state, and therefore, the supply of such frozen vegetables and fruit qualify for the zero rating.

The supply of a mix or a combination of vegetables and fruit by a store or similar establishment, whether or not at the delicatessen section of the establishment, may be zero-rated unless the vegetables and fruit fall under **2.2**.

The vendor must obtain and retain documentary proof substantiating the vendor's entitlement to apply the zero rate² under section 11(3).

¹ This ruling does not extend to frozen potato products as contemplated in BGR (VAT) 35 dated 27 May 2016 “The Value-Added Tax Treatment of the Supply and Importation of Frozen Potato Products”.

² Interpretation Note 31, dated 9 March 2016, or as updated, sets out the documentary proof that is acceptable for the purposes of section 11(3).

2.2 Standard-rated supplies

Vegetables and fruit supplied in the following manner are specifically excluded from Items 12 and 13 respectively, and the supply of such vegetables and fruit is subject to VAT at the rate of 14% under section 7(1)(a):

- (a) Cut, diced, sliced or peeled vegetables or fruit to which any other substance has been added whether or not separately packed in the same container (other than for purposes of preserving the vegetables or fruit in their natural state). Examples are –
 - (i) a sachet of spices added to sliced mushrooms;
 - (ii) fruit juice added to sliced fruit or a mixture of vegetable and fruit; and
 - (iii) salad dressing and/or cheese added to a green salad (for example, a mixture of slices of lettuce, cucumber and tomato).
- (b) Fresh or frozen vegetables and fruit that have been treated with an additive for the purpose of adding colour or flavour (for example, glucose, sugar or salt).
- (c) Dehydrated, dried, canned or bottled vegetables or fruit.
- (d) Vegetables or fruit smoothies or juices, and any similar products.

The supply of vegetables and fruit in the course of carrying out any agreement for the furnishing or serving of any meal, refreshment, cooked or prepared food or any drink, so as to be ready for immediate consumption when supplied, is subject to VAT at the rate of 14% under section 7(1)(a). The supply of vegetables and fruit by a restaurant or similar establishment, or in the course of providing catering services, is therefore subject to VAT at the rate of 14% under section 7(1)(a), irrespective of whether they fall under 2.1.

2.3 Importation of vegetables and fruit

The importation of vegetables and fruit listed in 2.1 is, under section 13(3) read with paragraph 7(a) of Schedule 1 to the VAT Act, exempt from the VAT levied under section 7(1)(b).

The importation of vegetables and fruit listed in 2.2 is subject to VAT at the rate of 14% under section 7(1)(b).

3. Period for which this ruling is valid

This ruling applies from date of issue until it is withdrawn, amended or the relevant legislation is amended.

Any ruling that would, but for this BGR, continue to be effective on or after the effective date of this BGR, allowing vendors to supply or import vegetables and fruit at a rate that is different from the rate prescribed in this BGR, is withdrawn from the effective date of this BGR.

To the extent that this BGR does not provide for a specific scenario regarding the supply or importation of vegetables and fruit, vendors may apply for a VAT ruling or VAT class ruling in writing by sending an e-mail to **VATRulings@sars.gov.za** or by facsimile to 086 540 9390. The application should consist of a completed VAT301 form and must comply with the provisions of section 79 of the Tax Administration Act, excluding section 79(4)(f) and (k) and (6).

Executive

Legal Counsel: Indirect Taxes

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