

BINDING GENERAL RULING (VAT) NO: 18

DATE: 27 March 2013

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991 (the VAT Act)
SECTION : SECTION 11(1)(j) READ WITH ITEM 13 IN PART B OF SCHEDULE 2 TO THE VAT ACT
SUBJECT : THE ZERO-RATING OF VARIOUS TYPES OF DATES

Preamble

For the purposes of this ruling –

- **“BGR”** means a binding general ruling issued under section 89 of the Tax Administration Act No. 28 of 2011;
- **“Item 13”** means Item 13 in Part B of Schedule 2;
- **“Schedule”** means a Schedule to the VAT Act; and
- any word or expression bears the meaning ascribed to it in the Vat Act.

1. Purpose

This BGR sets out the VAT treatment of dates in its various forms in order to determine if the supply of such dates will be subject to VAT at the zero rate as envisaged in section 11(1)(j) read with Item 13.

2. Background

Suppliers and importers of dates have approached SARS requesting confirmation that the supply of dates in its various forms will be subject to VAT at the zero rate, and that the importation thereof would be exempt from VAT.

3. The law and its application

Any vendor making taxable supplies of goods or services in the course or furtherance of any enterprise is, in terms of section 7(1)(a), required to levy VAT at the rate of 14% on these supplies. However, this levying of VAT is, amongst other exceptions, subject to the zero-rating provisions in terms of section 11 read with section 11(3).

In this regard, section 11(3) requires a vendor to obtain and retain documentary proof substantiating the vendor's entitlement to apply the zero rate. Interpretation Note No. 31 “Documentary Proof Required for the Zero-Rating of Goods and Services”¹ sets out the documentary proof that is acceptable to the Commissioner for the purposes of section 11(3). In terms of Interpretation Note No. 31 a copy of the supplier's zero-rated tax invoice is acceptable to the Commissioner for the application of the zero rate contemplated in section 11(1)(j).

¹ This includes all updates of such Interpretation Note.

3.1 Various forms of dates

3.1.1 Fresh unpitted dates

A fresh unpitted date is a date in its natural form with the pit intact and the appearance of the date has not been altered in any way. Fresh dates are available soft, semi-soft or dry. The dry varieties of fresh dates are not the same as the "dried" dates (which have been deliberately dehydrated). "Dry" dates are fresh dates that contain relatively little moisture as a result of a natural ripening process.

3.1.2 Dried dates

A dried date contains less moisture than a soft date. A dried date is deliberately dehydrated to remove its moisture. Dried dates have a longer shelf-life than fresh dates.

3.1.3 Pitted or de-pitted dates

A "pitted" date is a date where the stone has been removed. Dates are usually de-pitted by making a lengthwise slit in the date with a knife and neatly removing the pit.

3.1.4 Compressed dates

A compressed date is a ripened date from which the pit has been removed. The dates are initially compressed into big blocks, then cut into smaller blocks and packaged for sale.

3.1.5 Dehydrated dates

Dehydration is the process of removing moisture or water from a food product for the purpose of preserving the product.

3.2 The supply of dates

In terms of section 11(1)(j) read with Item 13, the supply of fruit not cooked or treated in any manner except for the purpose of preserving this fruit in its natural state, is subject to VAT at the rate of zero per cent. Dehydrated, dried, canned or bottled fruit and nuts are excluded.

In terms of paragraph 2 in Part B of Schedule 2, the zero-rating shall not apply if the foodstuffs listed in Part B are supplied in the course of 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. An example is a fruit salad which is served in a restaurant or purchased at a store and ready to eat.

3.3 Importation of dates

The importation of goods into South Africa by any person is, in terms of section 7(1)(b), subject to VAT at the rate of 14%, unless an exemption applies thereto. Section 13(3), provides that the importation of goods specified in Schedule 1 is exempt from VAT levied in terms of section 7(1)(b).

Paragraph 7(a) of Schedule 1 read with section 13(3), exempts goods consisting of certain foodstuffs set forth in Part A and Part B of Schedule 2 from VAT levied in terms of section 7(1)(b) on importation.

4. Ruling

4.1 Zero-rated supplies

The supply of fresh unpitted dates is zero-rated in terms of section 11(1)(j) read together with Item 13.

4.2 Standard-rated supplies

The supply of dried dates, pitted or de-pitted dates, compressed dates, dehydrated dates are specifically excluded from Item 13 and are subject to VAT at the standard rate of 14 % in terms of section 7(1)(a).

4.3 Importation of dates

The importation of fresh unpitted dates is exempt from the VAT levied in terms of section 7(1)(b) by section 13(3) read with paragraph 7(a) of Schedule 1.

The importation of dates, listed in **4.2**, is subject to VAT at the rate of 14% in terms of section 7(1)(b).

5. Period for which this ruling is valid

This BGR is effective from 1 July 2013 until it is withdrawn, amended, the relevant legislation is amended or a decision of the courts differ materially from it.

Any ruling issued to vendors allowing vendors to supply dates at the rate of zero per cent other than that which is confirmed in this ruling, is withdrawn from 30 June 2013.

To the extent that this BGR does not provide for a specific scenario in respect of the supply of dates, vendors may request a VAT ruling which must be sent to the following centralised e-mail address or fax number:

- E-mail: VATrulings@sars.gov.za
- Fax number: 086 540 9390

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