

SECOND DRAFT BINDING GENERAL RULING (VAT)

DATE:

ACT : VALUE-ADDED TAX ACT NO. 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 FRUIT AND VEGETABLES

Please note: This BGR was released as a draft in 2014. SARS has received requests to delay finalisation in order to allow for additional submissions. After due consideration, SARS has agreed to issue an updated draft for a second round of comment. Additional submissions must be made on or before 31 May 2015.

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**” means an Item in Part B of Schedule 2 to the VAT Act;
- “**section**” means a section of the VAT Act;
- “**VAT**” means value-added tax;
- “**VAT Act**” means the Value-Added Tax Act No. 89 of 199; 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 fruit and vegetables; and
- withdraws BGR (VAT) No. 18 “The Zero-Rating of Various Types of Dates” dated 27 March 2013.

2. Ruling

This ruling constitutes a BGR insofar as it relates to the items listed in **2.1** to **2.3** below.

2.1 Zero-rated supplies

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

(fruit) respectively. Fresh and frozen fruit and vegetables sold in the following forms qualify for zero-rating:

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

Frozen fruit and vegetables¹ that have been blanched in hot water for the purpose of preserving the fruit and vegetables in its natural state qualify for the zero-rating.

Subject to 2.2, the zero-rating applies regardless of whether the fruit and vegetables 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).

2.2 Standard-rated supplies

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

- (a) Cut, diced, sliced, peeled or shredded fruit or vegetables, to which any other substance has been added (other than for purposes of preserving the fruit or vegetables in its natural state). Examples are –
 - (i) a sachet of spices added to sliced mushrooms;
 - (ii) fruit juice added to a mixture of sliced fruit; and
 - (iii) salad dressing added to a mixture of salad leaves,whether or not it is packaged separately in the same container.
- (b) Minced, crushed or pureed fruit or vegetables.
- (c) Fresh or frozen fruit and vegetables that have been treated with an additive for the purpose of adding colour or flavour (for example, glucose, dextrose, sugar or salt).
- (d) Dehydrated, dried or compressed fruit or vegetables, for example, compressed dates.
- (e) Fruit smoothies, fruit and vegetable juice and any similar products.
- (f) Fruit and vegetables 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.

¹ This ruling does not extend to frozen potato products as contemplated in the Draft BGR “The VAT Treatment of the Supply and Importation of Frozen Potato Products”.

2.3 Importation of fruit and vegetables

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

3. Period for which this ruling is valid

This BGR will apply from the date of issue of the final BGR and will apply until it is withdrawn 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 fruit and vegetables at a rate that is different from the rate prescribed in this BGR is withdrawn from the effective date of the final BGR.

To the extent that this BGR does not provide for a specific scenario on the supply of fruit and vegetables, 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, 2011 excluding section 79(4)(f) and (k) and (6).

**Group Executive: Interpretation and Rulings
Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE**