

BINDING GENERAL RULING (VAT): NO. 35

DATE: 27 May 2016

ACT : VALUE-ADDED TAX ACT NO. 89 OF 1991
SECTION : SECTIONS 11(1)(j) AND 13(3), PARAGRAPH 7(a) OF SCHEDULE 1, ITEM 12 IN PART B OF SCHEDULE 2
SUBJECT : THE VALUE-ADDED TAX TREATMENT OF THE SUPPLY AND IMPORTATION OF FROZEN POTATO PRODUCTS

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;
- **“formed potato product”** means a potato product that has been produced through the reconstitution of a potato, such as a potato product that has gone through the process of pureeing, mashing, mincing, shredding or crushing, and to which other ingredients such as flour, seasoning or flavourants are added;
- **“Item 12”** means Item 12 in Part B of Schedule 2 to the VAT Act;
- **“made from potato”** in relation to a potato product means a potato is present in the product in any form, and is –
 - the only ingredient in the product; or
 - where it is not the only ingredient in the product, the main ingredient in the product;
- **“potato product”** means a product made from potato;
- **“section”** means a section of the VAT Act;
- **“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 frozen potato products.

2. Ruling

This ruling constitutes a BGR under section 89 of the Tax Administration Act No. 28 of 2011 insofar as it relates to the items listed in **2.1** to **2.3**.

2.1 Zero-rated supplies

The supply of the following frozen potato products is subject to VAT at the zero rate under section 11(1)(j) read with Item 12:

- (a) Potato products that are blanched in hot water, steam or oil for the purpose of preserving the product in its natural state. For purposes of this BGR, blanching of potato products in order to –
 - (i) stop the action of enzymes that can cause loss of flavour, colour and texture;
 - (ii) make the potato product safer for the end-user from a microbiological aspect;
 - (iii) brighten the colour and help to prevent the loss of the natural sugars and vitamins present in the potato product;
 - (iv) soften the potato product and make it easier to pack; or
 - (v) prepare the potato product for freezing,

is regarded as being performed for the purpose of preserving the product in its natural state.

- (b) Potato products that have been treated with a preservative to prevent the potato product from naturally darkening.

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.¹

2.2 Standard-rated supplies

The supply of the following frozen potato products is specifically excluded from Item 12 and is subject to VAT at the rate of 14% under section 7(1)(a), irrespective of whether such products have also been treated in the same manner as the products listed in **2.1**:

- Potato products that have been treated with an additive, excluding dextrose, for a purpose other than to preserve the potato product in its natural state, such as flavourings, sweeteners, spices and salt.
- Potato products that are coated with a layer of batter in order to increase the crispiness.
- Formed potato products, such as hash browns and röstis.

2.3 Importation of fruit and vegetables

The importation of the frozen potato products 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 frozen potato products listed in **2.2**, is subject to VAT at the rate of 14% under section 7(1)(b).

¹ Interpretation Note No. 31, dated 22 March 2013, or as updated, sets out the documentary proof that is acceptable to the Commissioner for the purposes of section 11(3). A copy of the supplier's zero-rated tax invoice setting out a proper description of the goods supplied is acceptable for the application of the zero rate contemplated in section 11(1)(j).

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 frozen potato products 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 frozen potato products, 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).

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