

11 April 2016

The South African Revenue Service

Lehae La SARS

299 Bronkhorst Street

PRETORIA

0181

BY EMAIL: policycomments@sars.gov.za

RE: DRAFT BINDING GENERAL RULING RELATING TO THE VAT TREATMENT OF VEGETABLES AND FRUIT

Provided below are SAIT's comments relating to the draft binding general ruling relating to the VAT treatment of vegetables and fruit. The key issue at stake is the practical application of the zero rating.

We apologise for the delayed response. In compiling this response, we connected with the key tax personnel directly involved in these issues as well as their tax advisors.

As a practical matter, the draft binding general ruling covers most of the substantive issues associated with the VAT rating of vegetables and fruit. Application of these rules are fairly clear for most aspect of the food chain.

The only significant borderline cases appear to stem from grocery store chains and similar direct suppliers to customers of the general public (as opposed to restaurants). While a zero rating is admittedly preferred, it is more important that there is a consistency in application so no chain has an artificial advantage over the other. We therefore seek to confirm the following based on our understanding of the general binding ruling:

- The mixing of different uncooked vegetables without more (besides cleaning) in a packet, container or over-the-counter product should be zero-rated (refrigerated or otherwise). Similarly, the mixing of these vegetables with other zero rated food stuffs should also be zero-rated (fairly rare).

- The use of cooking / blanching and the mixing of otherwise zero-rated food stuffs with standard rated items would prevent a zero rating. For instance, the use of cooking or premade sauces (including dressings) should prevent the zero rating from applying. The separation of these premade sauces in a separate packet should not alter the conclusion if the separate packet is part of the sale item.
- The use of “ready-to-eat” fruits / vegetable plates should follow the above principles. For instance, mixed cut fruits should be zero-rated if nothing else is added even if “ready-to-eat”. Fresh salads should be treated the same.
- It should make no difference if the customer mixes the zero rated fruit and vegetables with other standard rated items at an over-the-counter salad bar counter as long as the zero rated items are sold / itemised separately. The salad bar can be self-serve or provided by the behind-the-counter person.

Please advise whether these questions can be fully addressed within the draft general binding ruling or whether these issues are better addressed through a binding class ruling.

We again thank you for the opportunity to comment on this matter.

Yours sincerely,

Keith Engel

Chief Executive