

5 April 2017

The South African Revenue Service
Lehae La SARS, 299 Bronkhorst Street
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BY EMAIL: policycomments@sars.gov.za

RE: Draft Binding General Ruling (VAT) – Supply of Potatoes

We write to comment on the draft binding general ruling (BGR) regarding the supply of potatoes referred to in sections 11(1)(g) and 11(1)(j) of the Value-Added Tax Act, 89 of 1991 (“the VAT Act”). These sections are to be read with Part A and Part B of Schedule 2 of the VAT Act.

A. Background

The VAT Act allows for the zero-rated supply of potatoes under certain limited circumstances, namely as foodstuffs under Item 12 of Part B and as seed for cultivation supplied to authorized farmers under Item 6 of Part A. On the other hand, supplies to intermediaries/traders who buy potatoes as seed to on-sell them have to be standard rated. These traders can zero-rate their supplies to farmers.

B. Comments for consideration

We recommend that as part of the introductory paragraph of section 2 it is clearly stated that the BGR should be applied at the time of supply of **any** potato. This would clarify which Part of Schedule 2 is applicable to determine whether the supply is zero-rated or standard rated. This would also for example clarify the VAT treatment of seed potatoes (as defined in the BGR) which are supplied as table potatoes and can be zero-rated as foodstuffs.

Given that this BGR will be used by various farmers and other people in the agricultural industry, we would recommend that the BGR should go one step further to summarise in layman's language that:

- The supply of potatoes as foodstuffs that meet all the requirements set out in section 11(1)(j) read with Part B of Schedule 2 of the VAT Act is zero-rated.
- The supply of potatoes as seed for cultivation that meet all the requirements set out in section 11(1)(g) read with Part A of Schedule 2 of the VAT Act is zero-rated.
- The supply of potatoes as seed for cultivation to a recipient that is not a farmer with a valid Notice of Registration cannot be zero-rated but must be standard rated, therefore the supply to a trader for on-sale must be standard rated.
- The supply of potatoes as seed for cultivation that does not meet all the requirements set out in section 11(1)(g) read with Part A of Schedule 2 of the VAT Act must be standard rated. It may also not be treated as the supply of foodstuffs and zero-rated under section 11(1)(j).

-X-X-X-

We welcome the opportunity to comment on the draft BGR and look forward to future engagements.

Yours sincerely

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