



Technical Advisory
Volume 1; Issue 5; Issued 2004, January

Re: Supply of Agricultural Produce pursuant to Section 29(2) of the GCT Act.

Issue

This Advisory relates to persons who are engaged in the production of agricultural produce, hereafter refers to the “*specified produce*”.

Legislation

All references are to the General Consumption Tax Act 1991, unless otherwise stated.

Facts

1. The GCT Act was amended, December 18, 2003 authorizing the Commissioner to register agriculturalists as registered taxpayers, notwithstanding that the goods they supply are exempt from tax.
2. The amendment also changed the status of the supply from exempt to taxable at zero (0%) if they are supplied under certain conditions.
3. This provision was amended in April 1995 to give the effect stated in 3.1. However the amendment was incomplete.

Amendments to the Legislation

1. Section 29(2) was re-amended and a new provision was inserted into the First Schedule to the Act.
2. “29. (1) *A person who supplies goods and services specified in the Third Schedule shall be exempt from being registered under this Act in respect of those goods and services.*
(2) *Notwithstanding subsection (1), the Commissioner may register as a registered taxpayer any person who is engaged in the growing of agricultural produce and who -*
(a) *exports that produce either directly or through an organisation established for the purpose of exporting that produce; or*
(b) *sells that produce to a registered taxpayer for use in the production of finished goods;*”
3. The words “intermediate goods” were deleted from section 29 (2)(b).
4. New provision, Insert “Item 10” into the First Schedule Part 2, Group 2:

“10. *Agricultural produce which is -*
(a) *exported; or*
(b) *sold to a registered taxpayer for use in the production of finished goods,*”
- *by a person registered as a registered taxpayer pursuant to section 29(2) of this Act.*


Analysis of the amendments

- (a) the provisions only apply to persons who are engaged in the production of agricultural produce;
- (b) the person should be involved in the exportation of those goods, either directly or indirectly, or

- (c) sell the specified produce to a registered taxpayer who will use that produce to make a finished product.
- (d) The obligation is on the agriculturalist to demonstrate, as per (a) to (c) above, to the Commissioner that he is eligible for registration.
- (e) Once the person is registered as a registered taxpayer, and supplies the specified produce pursuant note (b) and (c) above, those supplies will change their status from exempt to taxable at zero percent.
- (f) If all the conditions in (b) and (c) are not met, the supply will be exempt from tax.
- (g) The taxpayer is entitled to claim a tax credit/input tax credit for supplies acquired on which tax were paid, and which are related to the conditions listed in (b) and (c) .
- (h) The taxpayer may claim a refund of tax if the specified produce were supplied pursuant notes (b) and (c) and he is allowed to claim a tax credit as per note (h). However, he must satisfy the Commissioner that he is so entitled.

The Commissioner will not regard the following supplies as supplies to be used for the purpose of making finished goods:

- (a) Supplies made to retail outlets, including supermarkets;
- (b) Supplies made to restaurants, hotels or similar establishments;
- (c) Supplies for own use which will not be used in the production of finish goods;
- (d) The supply of imported products.
- (e) Any other supplies, which in the opinion of the Commissioner do not satisfy the conditions, stated in Note 5 (b) and (c) above.



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pursuant to Section 29(2) GCT Act”