



Technical Bulletin

The GCT Status of Raw Foodstuff.

This advisory seeks to clarify the General Consumption Tax (GCT) status of raw foodstuff on importation and sale in the domestic market.

Issue:

- Is the GCT suffered on the importation of raw foodstuff claimable as input tax credit?
- Is the sale of raw foodstuff taxable in the domestic market?

General:

It has been brought to our attention that some registered taxpayers who supply meat to the domestic market are charging tax (GCT) in respect of the supply. It is also reported, that some Hotels as well as local suppliers of meat, are claiming the tax suffered at the port and tax charged as per local invoices, as input tax credit on their monthly GCT return forms. One of the provisions being relied on is the GCT Act First Schedule, Group 15B which states:

*"Goods which the Commissioner General is satisfied are -
(a) purchased in Jamaica by a continuing beneficiary for use in a hotel or resort cottage; and
(b) purchased before the termination date in respect of that continuing beneficiary"*

Legislative References:

General Consumption Tax (GCT) Act

- **4. Rate of general consumption tax.**
*4. (1) General consumption tax shall-
(b) in relation to taxable supplies specified in the First Schedule, be at the rate specified in that Schedule.*

- **24. Zero-rated taxable supply.**
24. Tax in respect of the supply in Jamaica or the importation into Jamaica of any taxable goods or services specified in Part II of the First Schedule shall be at a rate of zero per cent.

- Part 1 of the Third Schedule (Goods and Services Exempt from Tax)
Item 6
Raw foodstuff that is locally produced and raw foodstuff that is imported (in relation to its supply to the Jamaican market, but not in relation to its importation into Jamaica), that is to say-
 - (a) fresh fruit and vegetables, excluding imported apples, pears, quinces, apricots, cherries, peaches, nectarines, plums, sloes, berries, grapes and kiwis;*
 - (b) ground provisions;*
 - (c) legumes;*
 - (d) onions and garlic;*
 - (e) meat;*
 - (f) chicken;*
 - (g) fish, crustacean or mollusc;*
 - (h) corn,*
which contains no additive and which is not subject to any process other than –
 - (i) freezing, chilling, salting or otherwise immersed in a brine solution or packaging;*
 - (ii) slicing, mincing, grinding, dicing or chopping; or*
 - (iii) natural drying,*

- Group 15B of Part II of the First Schedule (Items which are Zero-rated)
Goods Purchased in Jamaica for Use in Hotels or Resort Cottages (Available July 2014 until end of grandfathering period)
 - 1. Goods which the Commissioner General are satisfied are-*
 - (a) purchased in Jamaica by a continuing beneficiary for use in a hotel or resort cottage;*
and
 - (b) purchased before the termination date in respect of that continuing beneficiary.*

- GCT Regulations 14.14
A registered taxpayer who imports raw foodstuff as specified in Item 6 in the Third Schedule to the Act shall not be entitled to claim input tax payable on the raw foodstuff so imported.

Hotels (Incentives) Act (Repealed January 2014)

- **11. Benefits in respect of customs duty and GCT.**
11. (1) Any company to which section 8 applies shall, if it fulfils the requirement specified in subsection (2), be entitled at any time prior to the expiration of the relevant concession period to import into Jamaica free of customs duty and general consumption tax the articles specified in the Second Schedule.

SECOND SCHEDULE (Section 11)

All building materials.

Bedsprings, billiard tables and their appliances, pianos, organs, radios, dynamos, air-conditioning apparatus and appliances, refrigerating apparatus and appliances, mirrors, mattresses, crockery, silver and plated tableware, table glassware, cutlery, kitchen utensils including stoves, iceboxes, bed linen, table linen, towels, rugs and carpets.

Fire extinguishers and apparatus.

Water pumps.

Blankets.

Electric light, bell and telephone equipment and appliances (not to include electric light bulbs).

Electric fans.

Electric and gas cooking equipment.

Hot water equipment, boilers and tanks.

Kitchen sinks and other kitchen fixtures.

Bath tubs, basins, toilets, showers and other bathroom fittings.

Elevators.

Swimming pool equipment.

Computer hardware.

Golf carts.

Bar equipment.

Laundry equipment.

Sewerage plant and equipment.

Security vaults and safes.

Conference Room equipment (for example, acoustical equipment).

Sports and gym equipment.

Television and radio equipment.

Satellite communications systems (not more than one such system.)

Electrical transformers and panel board.

Commercial floor polishers.

Commercial vacuum cleaners.

Ice-making machines.

Drapery material and upholstery fabrics.

Resort Cottages Incentives Act (Repealed January 2014)

11. Benefits in respect of customs duty and tax.

9.-(1) Any person who

(a) is for the time being the owner or tenant of all the resort cottages constituting a recognized group, whether or not such person is the operator or is entitled to receive any profits arising from the operation of any of such resort cottages; or

(b) not being the owner or tenant as aforesaid, operates all the resort cottages in such recognized group in accordance with an agreement made between himself and the owner or tenant and certified by the Minister to be acceptable for the purposes of this Act, and is so identified in the designation relating to such recognized group may, if he fulfils the requirement specified in subsection (2), be granted a permit by the Commissioner of Customs to import into Jamaica free of customs duty and general consumption tax, at any time prior to the expiration of the relevant concession period, the articles specified in the Schedule.

(The referenced schedule lists similar items as specified in the Second Schedule of the HIA.)

Discussion:

- The hotels and resort cottages which did not make an election under subsection 3 of section 5 of the Fiscal Incentives (Miscellaneous Provisions) Act, is required to charge tax at the standard rate (16.5%) on its supplies.

Pursuant to the HIA and the RCIA, the First Schedule Part II, Group 15 of the GCT Act provided for certain exemptions as follows:

Items which the Commissioner General is satisfied are acquired in circumstances under which they are exempt from customs duty pursuant to the following enactments-

- 3. The Hotels (Incentives) Act.*
- 10. The Resort Cottages (Incentives) Act.*

However it is to be noted that the items outlined in the extract of the HIA second schedule above, does not include consumables.

- In 2014 Group 15B was inserted into the first schedule allowing for:
Goods which the Commissioner General are satisfied are-

- (a) purchased in Jamaica by a continuing beneficiary for use in a hotel or resort cottage; and*
- (b) purchased before the termination date in respect of that continuing beneficiary.*

The interpretation of the First Schedule Group 15B has to be within the context of section 4(1) b and 24 which states as follows:

- 4. (1) General consumption tax shall-*
(b) in relation to taxable supplies specified in the First Schedule, be at the rate specified in that Schedule.

24. Tax in respect of the supply in Jamaica or the importation into Jamaica of any taxable goods or services specified in Part II of the First Schedule shall be at a rate of zero per cent.

- It is clear from the above provisions that the First Schedule only relates to taxable goods or services. So to the extent that goods are determined to be exempt when locally produced or supplied to the Jamaican market, such goods would not come within the scope of Group 15B.
- Regulation 14(14) expressly states that GCT suffered at the port in respect of item 6 part I of the Third Schedule cannot be claimed as input tax.
- Notwithstanding 100% of a hotel's supplies being taxable, the GCT on imports of items listed in the Third Schedule item 6 cannot be claimed. Suppliers of these specified items cannot claim the GCT suffered at the ports because of the expressed provision of Regulation 14 (14).
- As the items are exempt in the local market the supplies made to the hotels (whether a continuing beneficiary or not) remain exempt from tax.
- A Taxpayer who issues a tax invoice where no tax is chargeable in respect of the supplies, commits an offence in accordance with section 56E of the GCT Act.

Ruling:

1. GCT suffered on the importation of the goods specified in Item 6 of Part I of the Third Schedule, must be absorbed and cannot be claimed as a credit.
2. The items to be zero rated in accordance with the First Schedule Part II Group 15B are those which in the first instance were taxable items.
3. All good listed in the Third Schedule whether or not GCT is suffered at the port are exempt from tax when sold in the domestic market

DISCLAIMER:

This Advisory is a guide only and is not a substitute for the General Consumption Tax Act or any other relevant Legislation.