


ST 2146 - SALES TAX : CHOCOLATE COATED DRIED FRUIT AND CHOCOLATE AND SUGAR COATED NUTS.

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TAXATION RULING NO. ST 2146

SALES TAX : CHOCOLATE COATED DRIED FRUIT AND CHOCOLATE
AND SUGAR COATED NUTS.

F.O.I. EMBARGO: May be released

REF H.O. REF: 85/972-9 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

| REFERENCE NO: | SUBJECT REFS: | LEGISLAT. REFS: |
|---------------|---|---|
| I 1193308 | CHOCOLATE COATED DRIED FRUIT. CHOCOLATE AND SUGAR COATED NUTS. | SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT, ITEM 28, ITEM 33, ITEM 35C. FIRST SCHEDULE. |

PREAMBLE Sub-item 28(2) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act provides exemption for dried fruit (whether minced or otherwise, and including fruit spreads consisting principally of dried fruit).

2. Item 33 in the First Schedule exempts nuts, shelled, roasted or otherwise processed, including nutmeal, nut paste, and peanut butter.

3. Item 35C provides a general exemption for almost all foodstuffs for human consumption or as goods to be mixed with or added to food for human consumption but not including confectionery, beverages or cordials. For the purposes of this item, confectionery includes goods marketed as confectionery or consisting principally of confectionery.

4. The following two questions have arisen:-

- (a) whether chocolate coated dried fruit is a dried fruit, "whether minced or otherwise", for the purpose of sub-item 28(2); and
- (b) whether chocolate and sugar coated nuts are nuts, "shelled, roasted or otherwise processed", for the purposes of item 33.

RULING 5. Sub-item 28(2) provides exemption for dried fruits sold as such. The item does not extend to dried fruit that has been further processed by the addition of a coating of chocolate. Similarly item 33 does not extend to nuts that are coated with chocolate or sugar. In the context of item 33 the term "otherwise processed" does not embrace the chocolate or sugar coating of nuts.

6. Chocolate coated dried fruits and chocolate and sugar coated nuts are commercially recognised as confectionery items. While these products maintain their identities as foodstuffs, they are excluded from exemption under item 35C because they are confectionery. Chocolate coated dried fruit and chocolate and sugar coated nuts are taxable at the general rate of 20%.

COMMISSIONER OF TAXATION
25 JULY 1985

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