


ST 2293 - SALES TAX : SAVOURY SNACKS - FRUIT AND NUT MIXES

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TAXATION RULING NO. ST 2293

SALES TAX : SAVOURY SNACKS - FRUIT AND NUT MIXES

F.O.I. EMBARGO: May be released

REF H.O. REF: 85/9210-1 DATE OF EFFECT: Immediate

B.O. REF: PERTH - E/C 3/4 DATE ORIG. MEMO ISSUED:
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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1177114	SAVOURY SNACKS NUTS SEEDS FRUIT/NUT MIXES	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; SUB-CLAUSE 1(1) AND ITEM 23, FIRST SCHEDULE; ITEM 4, THIRD SCHEDULE

PREAMBLE Item 23 in the First Schedule to the Sales Tax
(Exemptions and Classifications) Act exempts from sales tax:

"Goods -

(a) of a kind sold exclusively or principally; or

(b) put up for sale,

as food for human consumption (whether or not requiring
processing or treatment) or as ingredients of food for human
consumption, including condiments, spices and flavourings, but
not including -

...

(k) savoury snacks;

...

"

2. Item 4 in the Third Schedule taxes at the rate of 10%
goods that would be exempt under item 23, First Schedule but for
the operation of paragraph (k) of that item.

3. The combined effect of the two items is that savoury
snacks are taxable at the rate of 10%. The expression "savoury
snacks" is defined in sub-clause 1(1) of the First Schedule as
follows:

"(a) goods, being -

(i) potato crisps, sticks or straws, corn crisps or
chips, bacon or pork crackling, prawn chips, or
seeds or nuts that have been shelled or have been
processed or treated by salting, spicing, smoking

or roasting or in any other manner; or

- (ii) any similar product, whether or not consisting wholly or partly of any vegetable, cereal, herb, fruit, meat, seafood or dairy product or extract thereof and whether or not artificially flavoured,

that are -

- (iii) of a kind sold exclusively or principally; or
- (iv) put up for sale,

as food for human consumption without requiring processing or treatment; or

- (b) goods consisting principally of any one or more of the goods referred to in paragraph (a),

but does not include -

- (c) goods marketed exclusively or principally as ingredients of food for human consumption or as goods to be mixed with or added to food for human consumption; or
- (d) nuts or seeds that have not been processed or treated by salting, spicing, smoking or roasting or in any similar manner, being nuts or seeds of a kind used exclusively or principally as ingredients of food for human consumption or as goods mixed with or added to food for human consumption."

4. Consideration has been given to whether various fruit and nut mixes are exempt from sales tax under item 23, First Schedule or taxable at 10% as savoury snacks under item 4, Third Schedule.

FACTS

5. Fruit and nut mixes consist of various combinations of dried fruit and nuts (e.g. raw and/or roasted peanuts, almonds, cashews, hazelnuts, brazil nuts, etc.), often with the addition of other foods such as pumpkin seeds, sunflower seeds, banana chips and carob buds.

6. Many packaged fruit and nut mixes are specifically sold as snack foods. Typically, they are sold in small plastic packs (e.g. 40gms, 100gms, 200gms, 375gms) under product names indicative of their suitability as snack foods, e.g. Nibbler's Delight, Snak Pak, TV Mix. Other packaged mixes are not specifically marketed as snack foods but are clearly intended as alternatives to traditional snack foods. They are invariably displayed with other snack foods in retail outlets.

7. Fruit and nut mixes are also sold as cake mix ingredients. Ordinarily these mixes are specifically marketed as cake mixes and are displayed with other cooking ingredients. The mixtures are usually moister than the snack packs, containing ingredients such as peel, glace cherries and angelica not commonly included in snack packs.

RULING

8. Fruit and nut mixes sold in packaged form are taxable at 10% as savoury snacks unless they are covered by excluding paragraph (c) of the savoury snacks definition. Packaged fruit and nut mixes of the kind referred to in paragraph 6 are considered to be savoury snacks and taxable at the rate of 10%.

9. Packaged mixes of the kind referred to in paragraph 7 and which are marketed exclusively or principally as ingredients of other foods, e.g. cake mixes, or as goods to be mixed with or added to other foods, come within excluding paragraph (c) and are not savoury snacks. They are exempt from sales tax under item 23, First Schedule.

10. In any case where there is uncertainty as to whether a particular fruit and nut mix is taxable as a savoury snack or exempt under item 23 full details, including the contents, packaging and advertising of the product, should be furnished to the local branch of the Australian Taxation Office for consideration.

COMMISSIONER OF TAXATION

27 October 1986