


ST 2301 (as amended 14/5/87) - SALES TAX : HERBAL PRODUCTS AND VITAMIN/MINERAL PREPARATIONS

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TAXATION RULING NO. ST 2301 (as amended 14/5/87)

SALES TAX : HERBAL PRODUCTS AND VITAMIN/MINERAL
PREPARATIONS

F.O.I. EMBARGO: May be released

REF N.O. REF: 83/12456-3 DATE OF EFFECT: Immediate

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1206656	HERBAL PRODUCTS VITAMIN/MINERAL PREPARATIONS	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEMS 23 AND 38, FIRST SCHEDULE

OTHER RULINGS ON TOPIC ST 2200, ST 2226 and ST 2252

PREAMBLE The sales tax classification of a wide range of herbal products and vitamin/mineral preparations has been considered. While it is not possible to issue an exhaustive classification of all individual products this Ruling will provide guidelines for the classification of individual products.

2. Item 38 in the First Schedule to the Sales Tax (Exemptions and Classifications) Act is the provision under which herbal products and vitamin/mineral preparations will fall for consideration. It exempts from sales tax drugs and medicines used in the prevention, cure or treatment of sickness or disease in human beings. Certain goods are excluded from exemption under item 38, the most important for the purposes of this Ruling being medicated confectionery, toilet preparations and goods in the nature of toilet preparations, including skin repair lotions and cosmetics.

3. Some of the products may also require consideration under item 23 in the First Schedule. Subject to certain exclusions item 23 exempts from sales tax goods of a kind sold exclusively or principally, or put up for sale, as food for human consumption or as ingredients of food for human consumption. Goods excluded from exemption under item 23 include confectionery, beverages (except beverages of a kind marketed exclusively or principally as food for infants or invalids), cordials and goods of a kind marketed exclusively or principally as ingredients of confectionery, beverages or cordials.

RULING 4. In Commissioner of Customs and Excise v. Beecham Foods Ltd (1972) 1 All ER 498 it was held that "Ribena", a blackcurrant syrup with added vitamin C, was not exempt as a medicine under the United Kingdom purchase tax legislation. The House of Lords concluded that Ribena was not a medicine but a health drink. It was a product conducive to general health and was marketed as a health drink.

5. Notwithstanding that the decision of the House of Lords relates to different legislation it is considered that it should be applied to item 38. Accordingly, herbal products such as health drinks, breath fresheners and so on which are not used in the prevention or treatment of specific ailments are not regarded as medicines for the purposes of item 38. Such products are taxable.

6. Examples of herbal products which are accepted as exempt from sales tax under item 38 are:-

- (a) tablets or other preparations identified by reference to the specific medical condition for which they are marketed e.g. asthma tablets, catarrh tablets, chilblain tablets, cold or cold and flu tablets, cough mixtures, diuretics, insomnia tablets, laxatives;
- (b) tablets or other preparations marketed for use in the relief of pain or discomfort e.g. rheumatism tablets, willow bark tablets (marketed as a natural alternative to aspirin);
- (c) tablets or other preparations identified by reference to the part of the body which they are suitable for treating e.g. bladder tablets, blood tablets, kidney tablets;
- (d) vitamin and/or mineral tablets.

7. Some products which are not drugs or medicines or have only doubtful claims to be drugs or medicines may be exempt as foods under item 23. Examples of products in this category are:-

- (a) tablets identified by reference to a dominant ingredient or ingredients having an accepted food value e.g. alfalfa tablets, bran tablets, cod liver oil tablets, garlic tablets, propolis and pollen tablets, sarsaparilla tablets, yeast tablets;
- (b) sweetening or flavouring tablets sold as ingredients for or to be mixed with or added to food for human consumption but not including tablets of a kind sold as ingredients for beverages, cordials or confectionery.

8. Examples of products which are not regarded as either medicines or foods and which are taxable at the general rate of 20% are:-

- (a) anti-smoking tablets;
- (b) slimming or reducing tablets unless it is established that the tablets are merely food supplements or substitutes;
- (c) appetite suppressants;
- (d) breath sweeteners and breath fresheners;

- (e) stimulants e.g. ginseng products;
- (f) aphrodisiacs;
- (g) skin cleanser tablets; and
- (h) tonic wines (refer ST 2252).

9. Taxpayers who are uncertain about the sales tax classification of particular herbal products or vitamin/mineral preparations should furnish full details of the product to their local Taxation Office branch for advice.

COMMISSIONER OF TAXATION
14 May 1987