

# ***ST 2163 - SALES TAX : CARBOHYDRATE MODIFIED FOODS INCLUDING CONFECTIONERY***

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TAXATION RULING NO. ST 2163

SALES TAX : CARBOHYDRATE MODIFIED FOODS INCLUDING  
CONFECTIONERY

F.O.I. EMBARGO: May be released

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1199331	CARBOHYDRATE MODIFIED CONFECTIONERY	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEM 35, FIRST SCHEDULE

OTHER RULINGS ON TOPIC: SALES TAX EXEMPTIONS AND CLASSIFICATIONS  
1983, PAGE 114

PREAMBLE Sub-item 35(117) in the First Schedule to the Sales Tax (Exemptions and Classifications) Act exempts foods which, in the opinion of the Commissioner, are marketed primarily as foods for infants and invalids. The question whether carbohydrate modified confectionery qualifies for exemption under this sub-item has recently been considered.

FACTS 2. Carbohydrate modified confectionery contains sugar substitutes such as sorbitol or mannitol and includes such products as chocolate, mints, fruit pastilles, candies and chewing gum.

3. In the past, carbohydrate modified confectionery, particularly chocolate, was exempted under sub-item 35(117) on the basis that it was formulated and sold specifically for consumption by diabetics. Diabetics were considered to be invalids for the purposes of sub-item 35(117).

4. It is evident, however, that there has been a major change in professional and community attitudes to diabetics and to the form of dietary control they require. Advice obtained from the Department of Health has confirmed that the weight of medical and dietetic opinion is to the effect that -

- (1) Diabetics are not generally considered to be invalids. A certain proportion of persons with severe or inadequately treated diabetes will suffer complications which may lead to invalidism. However, the vast majority of diabetics can lead a near normal lifestyle by control of diet and appropriate medication.
- (2) Foods, including confectionery, containing sugar substitutes such as sorbitol and mannitol are not currently regarded as suitable for use by diabetics.

5. Furthermore, such products may no longer be labelled as suitable for diabetics. State health regulations which previously allowed such labelling have been amended to preclude it. The use of carbohydrate modified confectionery in the dietary regime of diabetics is generally discouraged.

RULING

6. Carbohydrate modified confectionery does not qualify for exemption under sub-item 35(117) because -

- (a) it can no longer be marketed as suitable for diabetics and therefore is not "marketed primarily as foods for infants and invalids", and
- (b) in any event diabetics are generally not regarded in medical circles as invalids.

Carbohydrate modified confectionery is taxable at the general rate of 20%. The rulings at page 114 of Sales Tax Exemptions and Classifications 1983 in respect of chocolate and other confectionery products, being foods that contain the sugar substitute sorbitol and which are put up and marketed primarily for consumption by diabetics, are withdrawn.

COMMISSIONER OF TAXATION  
17 July 1985