


ST 2203 - SALES TAX : BISCUITS

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TAXATION RULING NO. ST 2203

SALES TAX : BISCUITS

F.O.I. EMBARGO: May be released

REF

H.O. REF: 85/9211-0

DATE OF EFFECT: Immediate

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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1205701	BISCUITS BISCUIT MIXES	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; CLAUSE 1, ITEMS 23, 113, 113A, 113B FIRST SCHEDULE; ITEM 4, THIRD SCHEDULE.

PREAMBLE

The provisions set out below govern sales tax liability of biscuits and goods used as ingredients or as aids to manufacture in the production of biscuits. The provisions came into force on 20 September 1985.

2. The term "biscuits" is defined in sub-clause 1(1) of the First Schedule to the Sales Tax (Exemptions and Classifications) Act to include cookies, crackers, pretzels, cones or wafers or goods consisting principally of biscuits or of cookies, crackers, pretzels, cones or wafers, but does not include breakfast food consisting wholly or principally of compressed, rolled or flattened cereal, rusks for infants or invalids or crispbread, or goods consisting principally of rusks for infants or invalids or crispbread.

3. Item 23 in the First Schedule 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, subject to certain exclusions. The exclusions from exemption include :

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(f) biscuits, other than biscuits manufactured in premises or vehicles in which the business of manufacturing biscuits is carried on exclusively or principally for the purpose of sale by retail directly from those premises or vehicles;

(g) mixes marketed exclusively or principally for use (other than household use) in the manufacture of biscuits;

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4. Item 4, Third Schedule, taxes at the rate of 10% goods that would be covered by item 23, First Schedule but for the operation of paragraph (f) or (g) of that item.

5. Item 113, First Schedule, exempts materials sold to or imported by an unregistered manufacturer to be used in, wrought into, or attached to, so as to form part of, goods to be manufactured by him, being goods covered by any item or sub-item in the First Schedule (other than item 100 or 103). For the purposes of item 113 it is provided that "materials" does not include goods falling within, inter alia, paragraph (g) of item 23.

6. Sub-item 113A(1), First Schedule, exempts goods, being aids to manufacture, sold or leased to or imported by, an unregistered manufacturer for use by him exclusively, or primarily and principally, in or in connection with the manufacture of goods covered by any item or sub-item in the First Schedule (other than item 100 or 103).

7. The expression "aids to manufacture" is defined for the purposes of the First Schedule in sub-clause 1(1). The definition excludes

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(f) goods for use exclusively, or primarily and principally, for or in connection with the preparation or preservation of food or drink (whether for consumption on the premises where it is prepared or preserved or elsewhere) in, or in premises occupied in connection with, hotels, boarding houses, catering establishments, kitchens, restaurants, cafes, milk bars, coffee shops, retail shops, vehicles, other retail outlets, or establishments or outlets similar to those establishments or outlets, not being goods for use by a manufacturer of savoury snacks or a confectioner, baker or pastry-cook exclusively, or primarily and principally, in the manufacture of savoury snacks, confectionery, bread, cakes, biscuits or pastry for sale by wholesale or for placing in stock for sale by retail;

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8. Sub-clause 1(6) provides that the reference in paragraph (f) of the definition of aids to manufacture to goods for use by a manufacturer of savoury snacks or a confectioner, baker or pastry-cook in the manufacture of biscuits does not include a reference to machinery designed for manufacturing biscuits used in premises or vehicles in which the business of manufacturing biscuits is carried on exclusively or principally for the purpose of sale by retail directly from those premises or vehicles.

RULING

9. The combined effect of item 23, First Schedule and item 4, Third Schedule is that the only biscuits which are exempt from sales tax are those sold by retail directly from the premises or vehicles in which they are manufactured. From 20 September 1985 all other biscuits are taxable at the rate of 10% under item 4, Third Schedule.

10. The expression "biscuits" is not limited to the kinds of biscuits mentioned specifically in the definition in sub-clause 1(1) of the First Schedule but includes all kinds of biscuits including dry biscuits, sweet biscuits, cream biscuits, savoury biscuits, chocolate biscuits etc. It also includes biscuit products which are marketed under some other description e.g. "Limmits" which are marketed as meal replacements.

11. Commercial biscuit mixes are also taxable at the rate of 10% under item 4, Third Schedule. Paragraph (g) of item 23, First Schedule retains biscuit mixes marketed exclusively or principally for household use within the scope of item 23. Biscuit mixes marketed for household use, such as those sold in supermarkets, are exempt from sales tax under item 23, First Schedule.

12. Persons engaged in the business of manufacturing biscuits for sale, other than those manufactured in the retail premises or vehicles from which they are sold, are required to be registered for sales tax purposes and account for tax in their monthly sales tax returns on biscuits sold by them. Manufacturers of biscuits in respect of which sales tax is payable are entitled to obtain raw materials (e.g. biscuit mixes) and aids to manufacture for use in production free of tax under quotation of their sales tax certificates of registration.

13. Persons engaged in the business of manufacturing biscuits for sale by retail directly from the premises or vehicles in which they are manufactured, for which there is no sales tax liability, are not required to register for sales tax purposes. However, because "materials" for the purposes of item 113, First Schedule, does not include goods covered by paragraph (g) of item 23, First Schedule, exemption does not apply for commercial biscuit mixes purchased for use by unregistered manufacturers in the manufacture of biscuits for which there is no sales tax liability. Commercial biscuit mixes used by those biscuit manufacturers remain taxable at the rate of 10%. Similarly, by virtue of sub-clause 1(6) of the First Schedule, the exemption under sub-item 113A(1), First Schedule, for aids to manufacture does not apply to machinery designed for manufacturing biscuits where such machinery is for use by unregistered manufacturers in manufacturing biscuits for which there is no sales tax liability. The equipment is taxable at the general rate of 20%.

COMMISSIONER OF TAXATION

7 January 1986

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