

GSTB 2001/1 - Pulses supplied as food for human consumption

GST Bulletin

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**Australian
Taxation
Office**

Pulses supplied as food for human consumption

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This Bulletin will apply on and from 1 July 2000.

*This document was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the **Taxation Administration Act 1953** and former section 105-60 of Schedule 1 to the **Taxation Administration Act 1953**.*

*From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to the **Taxation Administration Act 1953**.*

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you - provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

In Brief

For the purposes of this Bulletin, pulses are the hard, dried, edible seeds of leguminous plants such as field peas, lentils, chickpeas, soya beans, mung beans and faba beans.

Only machine dressed pulses supplied as food will be treated as food under the *A New Tax System (Goods and Services Tax) Act 1999* ('the GST Act'). Supplies of food, subject to certain exceptions¹, are GST-free.

This Bulletin discusses how the provisions dealing with food for human consumption in the GST Act apply to pulses.

This Bulletin does not apply to the fresh (not dried) produce of leguminous plants, such as garden peas or beans, even if they are subject to further processing such as freezing or canning, before sale to the public.

Also, this Bulletin does not apply to pulses such as bean, pea or mung beans that have been sprouted and are sold fresh for immediate consumption.

Background

Pulses undergo a number of phases of production and processing. They are harvested in a dried state and have the dust and chaff blown from them by the harvesting machinery. In this condition, the pulses are referred to as 'farm dressed' or 'farmer dressed'.

Farm dressed pulses are taken to processors' or vendors' facilities for classing and storage. Pulses that meet receival standards for human consumption are accepted for delivery and further cleaning and storage. Pulses that do not meet the minimum receival standards for human consumption may be supplied for export in the farm dressed state or may be supplied for stock feed.

Pulses meeting the minimum standards for human consumption undergo a process known as machine dressing that removes most of the impurities and foreign matter that remain in the produce. Machine dressed pulses can be sold directly to the public for consumption. The machine dressed produce may be supplied to distributors for sale domestically or for export, or for further processing such as sorting, grading, splitting or canning.

Pulses as 'food' in the GST Law

A supply of food is, subject to certain exceptions¹, GST-free. To be considered food for GST purposes, the definition of food in the GST Act must be satisfied.

The GST Act defines 'food' to mean:

- food for human consumption;
- ingredients for food for human consumption;
- beverages for human consumption;
- ingredients for beverages for human consumption;
- goods to be mixed with or added to food for human consumption;
- fats and oils marketed for culinary purposes.

¹ The exceptions include, food for consumption on the premises of supply, hot food for consumption away from the premises and food or beverages specified in the GST Act or regulations. These have limited practical application to the current Bulletin.

If a supply of something is not for human consumption it is not food. Even though produce may be supplied for human consumption there are exclusions² from the definition of food that may also need to be considered. These exclusions can prevent produce from meeting the definition of food.

For the purposes of this Bulletin the relevant exclusion is:

‘any grain, cereal or sugar cane that has not been subject to any process or treatment resulting in an alteration of its form, nature or condition’.

The word ‘grain’ is not defined in the GST Act and therefore it takes its ordinary meaning. Although ‘grain’ most commonly implies the edible seeds of cereals, it can also apply to other hard seeds, such as sunflower seeds, linseed, rapeseed (canola) and dried pulses. It is common practice in the industry for pulse growers to call themselves grain growers and to refer to dried pulses as pulse grains. Government departments and peak bodies also commonly treat pulses as grain and treat pulse growers as grain growers.

For the purposes of the GST Act the ATO interprets the term ‘grain’ to include dried pulses.

As pulses are grain for GST purposes, they are not considered food unless they have been subjected to a treatment or process that has altered their form, nature or condition.

Machine dressing is a process that alters pulses’ condition. Farm dressing, by contrast is part of the harvesting process. Pulses that are merely farm dressed have not been subjected to a treatment or process that has altered their form, nature or condition.

Pulses supplied for human consumption, that have been machine dressed are food for the purposes of GST.

Supplies of pulses

Farm dressed pulses

Supplies of farm dressed pulses are subject to GST under the basic rules, even if their ultimate use will be for human consumption. They have not undergone a process or treatment that has altered their form, nature or condition and as such cannot be food for the purposes of GST.

Export

The ATO has been advised that a large proportion of the pulses produced in Australia are exported in the farm dressed state. The ordinary rules of export apply to make supplies to overseas buyers GST free. Acquisitions of farm dressed pulses by exporters are subject to GST. It is not relevant that these may ultimately be sold for human consumption at their place of import. Farm dressed pulses do not meet the definition of food for GST purposes and the fact that they are supplied as food overseas cannot alter this.

² The exclusions include: live animals; unprocessed cow’s milk; grains, cereals and sugar cane that has not been subject to any processing or treatment; plants under cultivation used as food without processing.

Machine dressed pulses

Machine dressed pulses supplied for human consumption are food for the purposes of GST. It does not matter whether the purchaser intends to subject them to further processing before sale to end users.

Supplies of machine dressed pulses are taxable, if they are supplied other than as food for human consumption, such as animal feed. This contrasts with pulses *supplied* as food, but *used* for other purposes. There is no requirement for suppliers to know the final use of the pulses that they are supplying. For example, if a supplier sells processed pulses for human consumption and the purchaser chooses to use them as stock feed, the supply will have been of food and GST-free.

What about the National Agricultural Commodities Marketing Association's standards for farm dressed pulses?

The National Agricultural Commodities Marketing Association Incorporated (NACMA) has formulated a number of receival standards to facilitate the purchase, sale and classing of Australian pulses and to help prevent the export of sub-standard produce. These standards outline the acceptable percentages of seed material, defective seed material and foreign material. There are receival standards for various kinds of farm dressed pulses. Only pulses meeting the relevant standards are accepted for storage, processing or bulk handling.

Some sections of the pulse industry view farm or farmer dressed pulses that satisfy the receival standards, as suitable for human consumption. Although this produce will ultimately be used for human consumption, it does not meet the definition of food for GST purposes, as it has not undergone a process or treatment that has altered its condition, nature or form.

Commissioner of Taxation

28 March 2001

ATO References:
NO: T2000/111
FOI: I 1025110