



Tax Talk – Produce Supplier for VAT Purposes

This week in Tax Talk, we attempt to clarify what is meant by the term Produce Supplier. This follows the recent issue of the Standard Interpretation Guideline (SIG) 2018-05 Value Added Tax (VAT) – Produce Supplier by the Fiji Revenue and Customs Service (FRCS).

This sets out FRCS' interpretation in relation to the application of Value Added Tax (VAT) based on the operational practices of people dealing with produce supplies.

The above SIG is available on the FRCS website: <https://www.frcs.org.fj/our-services/practice-statements/standard-interpretation-guideline-2018-02/>

A key part of this guideline is the definition of the terms Produce Supplier and Middleman. While both could be called persons dealing with produce supplies, their roles are very different.

Produce Supplier for VAT Purposes

A produce supplier is a person who deals in produce in a raw and unprocessed state. Produce is defined as the produce from the activity of agriculture and includes any fruits, vegetables, root crops, fish and other aquatic produce for the purpose of consumption.

For VAT purposes, it is not mandatory for a produce supplier to register for VAT if produce supply makes up 90% or more of the person's total value of supplies (even if the total value of supplies exceeds the compulsory registration threshold of \$100,000).

The balance of supplies must also be produce but does not have to be in a raw and unprocessed state. It can be produce which has been processed through basic cutting, separation etc. e.g. minced meat, steak, pounded yaqona.

Raw and unprocessed state in relation to produce means:

- not yet cooked, smoked or baked;
- unmanufactured, undiluted, crude, un-milled, un-powdered, un-pounded;
- not processed mechanically or by the use of chemicals, except through basic separation, cutting of parts, packaging or freezing (excluding blast, quick or snap freezing).

Are produce suppliers required to register for VAT?

It is not mandatory for a produce supplier to register for VAT if –

- a. the produce supply makes up at least 90% of the person's total value of supplies, and
- b. the person's balance supplies (if any) are produce but does not have to be in a raw or unprocessed state.

Even if the value of produce supplies exceeds the compulsory registration threshold of \$100,000, a produce supplier is not mandatorily required to register if the above conditions are satisfied.

Can a produce supplier supply produce together with other taxable supplies?

A registered person who supplies both produce and other taxable supplies from the same place (e.g. Shop) is not a produce supplier. Exception is made only in case of branch or division, explained below.

Can a branch or division be considered as a produce supplier division?

A person who is registered for other taxable supplies and who does not want to charge VAT on produce prices, can apply to the CEO to treat a separate branch or division of the person's business as a produce supplier division.

Once approved in writing, that part of the produce supply business is treated as a separate branch or division. This means that:

- a. although the owner is a registered person, VAT will not be charged on sales of produce from that branch or division exclusively meant for produce supplies;
- b. the registered person is **NOT** allowed to claim **ANY** input tax on purchases and expenses not related to the branch or division;
- c. any asset (equipment etc.) used in a taxable activity that is transferred for use in the produce supply branch or division, is a deemed supply and the person will be required to account for output VAT on either the cost or the market value of the asset, whichever is less. However, **NO** input tax is claimable by a produce supply branch.

Is middleman a produce supplier?

If a person buys the produce from farmer and then supplies it to customers, the supply will not be considered as produce supply and the person supplying will not be considered as a produce supplier. Activity of buying and selling the agricultural products does not constitute activity of agriculture but trade.

For these reasons middle man's business activity is treated as normal taxable activity hence, if their annual gross turnover exceeds \$100,000 it is mandatory for them to register and charge VAT effective from *1st January, 2019*.

Example 1: Kava Dealers

An individual is registered as sole trader business, who buys the yaqona from farmers in raw state, cleans the yaqona (basically removing of the dry left over muds) and sells to kava shop in raw state.

Will the wholesaler be classified as a produce supplier?

The factors below will determine if a wholesaler can be considered as a produce supplier?

1. Is the sole trader supplying 100% of produce supplies (can be yaqona with other produce)?
2. Is produce supplied by sole trader from the agricultural activity which is also owned by him?

If answer to both questions is YES, the wholesaler will be considered as a Produce Supplier.

Answer to question 1 - YES.

Answer to question 2 – NO.

Conclusion: The wholesaler cannot be considered as a Produce Supplier.

Reason: The sole trader was selling yaqona purchased from suppliers of produce (farmers), the sole trader is a middleman, therefore he cannot be considered as a produce supplier.

Example 2: Green Grocer Shop

A green grocer has two shops.

Shop 1 – sells locally produced fruits and vegetables from agricultural activity in his own farmland

Shop 2 – sells imported fruits and vegetables

The shop owner maintains independent system of accounting for both shops.

Will the shop owner qualify as a produce supplier?

The factors below will determine if the shop owner will qualify as a produce supplier?

1. Do the two shops solely supply produce?
2. Do the two shops maintain an independent system of accounting?
3. Are the two shops separately identified by reference to being a produce supplier, (i.e. are shop 1 and 2 separately located)?
4. Is the produce supplied in both shops from agricultural activity which is also owned by the shop owner?

Answer to question 1 – YES

Answer to question 2 – YES

Answer to question 3 - YES

Answer to question 4 – YES for Shop 1 and NO for Shop 2.

Conclusion: The shop owner will be considered as a produce supplier only in respect to shop 1. As for shop 2, the shop owner *imports* fruits and vegetables, therefore cannot be considered as a Produce Supplier.

Reason: The shop owner meets all the requirements of produce supplier thereby making him eligible to be a produce supplier. For shop 2, the shop owner *imports* fruits and vegetables (does not sell produce grown in his own farm), therefore supplies of shop 2 cannot be considered as supplies made by the produce supplier.

For further queries please email us on vat@frcs.org.fj .