

Please note that the following Policy Statement, although correct at the time of issue, may not have been updated to reflect any subsequent legislative changes.

GST/HST Policy Statement

P-235 Meaning of "Fertilizer"

Date of Issue

March 8, 2000

Subject

MEANING OF "FERTILIZER"

Legislative Reference(s)

Section 5 of Part IV of Schedule VI to the *Excise Tax Act*

National Coding System File Number(s)

11845-2

Effective Date

January 1, 1991, for GST; April 24, 1996, for the S.C. amendment of 1997, c.10, ss.139(1); and April 1, 1997, for HST

Issue and Decision

The word "fertilizer" is not defined in the *Excise Tax Act* (the "ETA"), or in the *Interpretation Act*. Section 5 of Part IV of Schedule VI to the ETA, as amended, applying to supplies made after April 23, 1996, zero-rates the following:

“A supply of fertilizer (other than a good sold as soil or as a soil mixture, whether or not containing fertilizer) made at any time to a recipient when the fertilizer is supplied

(a) in bulk, or

(b) in a container that contains at least 25 kg of fertilizer,

where the total quantity of fertilizer supplied at that time to the recipient is at least 500 kg.”

Decision:

In order for a product to be considered by the Canada Customs and Revenue Agency (“CCRA”) to be a fertilizer pursuant to section 5 of Part IV of Schedule VI to the ETA, the following requirements should be met:

1. The purpose of the product is to provide plant nutrients;
2. The product contains either:
 - a) one or more of the major plant nutrients; or
 - b) one or more lesser plant nutrients;
1. The product label contains a 'guaranteed analysis' which is verified by a laboratory analysis. In the case of the presence of major plant nutrients, the 'grade' is displayed as part of the product name; and
2. The product being supplied must be marketed, advertised, packaged, labelled, or sold for use as a fertilizer. A product that is marketed with no indication as to the product's use is considered to be marketed or sold for use as a fertilizer.

Products that are considered to be fertilizers because they meet all of the requirements pursuant to the *Fertilizers Act* or any successor Act, if enacted, as well as regulations and administrative guidelines made pursuant to that Act, will have met all of the foregoing criteria and will therefore be considered to be fertilizers for purposes of section 5 of Part IV of Schedule VI to the ETA.

It is important to note that, based on the foregoing requirements, although a product may be considered by the CCRA to be a fertilizer, the supply of the product would only be a zero-rated supply where the provisions of section 5 of Part IV of Schedule VI to the ETA are met.

Details of the Decision:

The following expands on each of the foregoing listed requirements.

1. Directly Provides Plant Nutrients

The product is intended to directly provide a plant or crop with nutrients for its growth and crop yield, as opposed to a supplement which improves the physical condition of soils or aids plant growth or crop yields thereby indirectly benefiting plant and crop health by aiding in the ability to absorb the nutrients.

2. Product Composition

The product contains either:

- 3) one or more of the major plant nutrients nitrogen (N), phosphorus (P), and/or potassium (K); or
- 4) one or more lesser plant nutrients, each of which must be present in the required minimum levels as provided in Table I in Appendix I to this policy statement.

5. Guaranteed Analysis and Grade

A guaranteed analysis is a legal representation by the supplier of the product guaranteeing the stated percent of each individual plant nutrient claimed to be in the product, by weight of the total product, for both major and lesser plant nutrients. This is to be displayed on the label. However, in the case of supplies in bulk, this guarantee would be displayed on the invoice, on a shipping bill, or on a statement accompanying the supply.

In the case of the presence of major plant nutrients, the 'grade' is to be displayed as a set of three numbers that represent the minimum guarantee, in order, for the percent of total N, P, and K, by weight of the total product, in a hyphenated numerical series (N-P-K), (e.g. 15-10-0). The grade is to be displayed as part of the product name.

A guaranteed analysis is to be verified by a laboratory analysis. The principal criterion in determining whether the laboratory analysis is acceptable is that the conclusions be scientifically supported. In this regard, the following are factors to consider when deciding whether or not the conclusions are acceptable:

- a written report is prepared and signed by an individual employed by the laboratory with the authority to sign and issue such reports;
- the procedures employed by the laboratory are based on acceptable standards for this type of industry and analysis; and
- the conclusions are properly documented and supportable.

It should be noted that, for CCRA purposes, a variation in the percent of the quantity of individual plant nutrients between the quantity guaranteed and that revealed by a laboratory analysis will not automatically exclude the supply from zero-rating unless the quantities determined to be present by the laboratory analysis are found to be so minimal as to be ineffective, such as where the product contains only one lesser plant nutrient and the percentage of that lesser plant nutrient is determined to be less than the minimum requirement contained in Table I.

6. Product Marketing and Sale

The product being supplied must be marketed, advertised, packaged, labeled, or sold for use as a fertilizer; and for the following specific situations:

- a) where a fertilizer product is sold in separate packages with one set of packages marketed as a fertilizer and another for some other purpose, only the packages sold for use as a fertilizer will be zero-rated;
- b) where a fertilizer product is packaged for sale as both a fertilizer and some other purpose, it will be considered packaged as a fertilizer; and
- c) products which have fertilizing properties and which are marketed only by the product name, with no indication of use, would be considered to be marketed or sold for use as a fertilizer.

APPENDIX I

TABLE I LESSER PLANT NUTRIENTS	
ELEMENT	MINIMUM PERCENT (by weight)
Calcium (Ca)	1.0000
Magnesium (Mg)	0.5000
Sulphur (S)	1.0000
Boron (B)	0.0200
Chloride (Cl)	0.1000
Copper (Cu)	0.0500
Iron (Fe)	0.1000
Manganese (Mn)	0.0500
Molybdenum (Mo)	0.0005
Zinc (Zn)	0.0500

All nutrients are expressed by weight. The percent represents the amount of individual plant nutrients in relation to the total product by weight. The exception is for calcium (Ca), magnesium (Mg), and sulphur (S) which are guaranteed as a minimum amount expressed in percent on an elemental basis.

SAMPLE RULING 1

Statement of Facts

1. Producers Unlimited (PU) collects, packages, and markets sheep manure;
2. PU is registered for the GST/HST;
3. PU has provided samples of its manure to a local laboratory for analysis. The analyses undertaken and conclusions reached by this laboratory are scientifically supportable. The samples have been found to contain 2% nitrogen and 55% organic matter;
4. PU sells its packaged manure in 30 kg containers in total quantities of between 750 and 1,200 kg per order;
5. PU lists its guaranteed analysis on its label as 2-0-0;
6. The product is sold as Sheep Manure 2-0-0.

Ruling Given

Supplies of Sheep Manure 2-0-0 are zero-rated as supplies of a fertilizer pursuant to section 5 of Part IV of Schedule VI to the ETA.

Explanation

Sheep manure is a fertilizer since it contains nitrogen, which is one of the major plant nutrients. On its label, PU has guaranteed that this product contains nitrogen in the amount determined by the laboratory and it has the grade designation as part of its product name. In addition, the sheep manure product is not sold as a soil or soil mixture and it is sold in containers in quantities of at least 25 kg and in total quantities of at least 500 kg.

SAMPLE RULING 2

Statement of Facts

1. Superior Environmental Limited (SEL) produces, packages, and markets urea;
2. SEL is registered for the GST/HST;
3. SEL has provided samples of its urea to a local laboratory for analysis. The analyses undertaken and conclusions reached by this laboratory are scientifically supportable. The samples have been found to contain 46% nitrogen;
4. SEL supplies this urea to purchasers who purchase it for varying uses. Included are farmers who use the product as a fertilizer and airports which use the product as a de-icer;
5. The sales invoices state that the product is urea with a guaranteed analysis of 45% nitrogen, displayed as Urea 45-0-0;

6. In most cases, SEL does not know and does not inquire as to the use to which the product will be put. However, the airport authorities which purchase this product are well known to SEL as they are regular customers purchasing in very large quantities in the late fall and winter for use which SEL knows to be as a de-icer;

7. The airport authorities purchase SEL's urea product in bulk in quantities far exceeding 500 kg.

Ruling Given

Supplies of Urea 45-0-0 to the airport authorities are zero-rated as supplies of a fertilizer pursuant to section 5 of Part IV of Schedule VI to the ETA.

Explanation

The urea product is a fertilizer since it contains nitrogen, which is one of the major plant nutrients. Further, the sales invoices contain a guaranteed analysis which has been verified by a laboratory whose analyses and conclusions are acceptable.

Since the product has fertilizing properties and is marketed by its product name with no indication of use, it is considered to be "marketed, advertised, packaged, labeled, or sold for use as a fertilizer". There is no obligation on the part of the supplier to ascertain the specific purpose to which the fertilizer product is to be put by the purchaser. The fact that this supplier knows at the time of making these supplies that the product is typically used as an airport de-icer does not affect the result that the supply is zero-rated pursuant to section 5. Finally, the supplies are in bulk in total quantities of at least 500 kg.

SAMPLE RULING 3

Statement of Facts

1. Dependable Universal Safety Tillers (DUST) are suppliers of potash;
2. DUST is registered for the GST/HST;
3. DUST produces a single product which contains 20% potash which DUST lists and guarantees on its packages, displayed as Potash Manure Salts 0-0-20;
4. The 20% content of potash in the product has been verified by a laboratory and its analyses and conclusions are scientifically supportable;
5. DUST produces two distinct products which contain the identical contents of 20% potash: one it packages as an agricultural fertilizer, and the other it packages as a component in the manufacture of glass;
6. When DUST is temporarily out of stock of the product packaged as fertilizer, it will supply its customers with the identical product packaged for use in the manufacture of glass.

Ruling Given

Where DUST is temporarily out of stock and supplies Potash Manure Salts 0-0-20 packaged for use in making glass to purchasers who intend to use the product as a fertilizer, the supplies are taxable at 7% or 15% (as applicable).

Explanation

The product has not been marketed, advertised, packaged, labeled, or sold for use as a fertilizer. The packaging indicates that the product is for sale as an ingredient in the manufacture of glass and this is not rebuttable notwithstanding evidence in particular sales to the contrary.

SAMPLE RULING 4

Statement of Facts

1. Bulk Users Limited (BUL) are suppliers of slag;
2. BUL operates a warehouse containing large bins which they use to store the slag which they sell to the public by weight;
3. Minimum purchase quantities are 500 kg;
4. Attached to the storage bins are labels which represent that the slag contains at least 16% phosphoric acid, displayed as Basic Slag 0-16-0. In addition, when a purchase is made, an invoice is printed from BUL's computer on which BUL once again represents that the slag contains at least 16% phosphoric acid;
5. The 16% phosphoric acid content has been verified by a laboratory and its analyses and conclusions are scientifically supportable.

Ruling Given

Supplies of Basic Slag 0-16-0 are zero-rated as supplies of a fertilizer pursuant to section 5 of Part IV of Schedule VI to the ETA.

Explanation

Slag is considered to be a fertilizer for the purposes of section 5 of Part IV of Schedule VI to the ETA since it contains at least 16% of the major plant nutrient phosphoric acid. There is no statement that the slag is sold as soil or a soil mixture, and a product which is marketed with no indication as to the product's use is considered to be "marketed, advertised, packaged, labeled, or sold for use as a fertilizer". The invoices provide that its customers purchase the product in minimum quantities of 500 kg in bulk.

SAMPLE RULING 5

Statement of Facts

1. Lazy Meadows Farm (“LM”) is in the dairy business;
2. The manure produced by the cows is sold to local farmers who purchase the manure in truckloads in total amounts exceeding 500 kg for their fields;
3. LM does not formally market and label this product. Marketing is by word of mouth;
4. Invoices contain the quantity of manure sold and the price charged, however, the description of the supply is limited to the words “sale of manure”;
5. It is accepted by purchasers that the manure contains a significant percentage of nitrogen by weight, however, no laboratory analysis has been done to verify the percentage.

Ruling Given

Supplies of the manure product in bulk in total quantities of at least 500 kg, where the product is not sold as a soil or soil mixture, are zero-rated as supplies of a fertilizer pursuant to section 5 of Part IV of Schedule VI to the ETA.

Explanation

The LM manure is considered to be a fertilizer for the purposes of section 5 of Part IV of Schedule VI to the ETA. The purpose of the product is to provide plant nutrients, and the product very likely contains adequate quantities of nitrogen. Although the following requirements do not appear to have been met: the presence of a guaranteed analysis; the grade of the major plant nutrient(s) being part of the name; and a laboratory analysis verifying the quantities guaranteed to be present, nevertheless, manure is commonly known for its fertilizing properties and consequently for its usefulness as a plant nutrient. Further, since the product is marketed with no indication as to use, it is considered to be marketed or sold as a fertilizer. Therefore, the product is considered to be a fertilizer for the purposes of section 5 of Part IV of Schedule VI to the ETA.