

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-241 Meaning of “Other Similar Snack Food” Under Paragraph 1(f) of Part III of Schedule VI to the *Excise Tax Act* (ETA)

Date of Issue

May 9, 2002

Subject

MEANING OF “OTHER SIMILAR SNACK FOOD” UNDER PARAGRAPH 1(F) OF PART III OF SCHEDULE VI TO THE *EXCISE TAX ACT* (ETA)

Legislative Reference(s)

Section 1 of Part III, *Basic Groceries*, of Schedule VI to the ETA

National Coding System File Number(s)

11850-1

Issue and Decision

Paragraph 1(f) refers to a class of foods known as salty or savoury snack foods. This provision excludes from zero-rating supplies of chips, crisps, puffs, curls or sticks (such as potato chips, corn chips, cheese puffs, potato sticks, bacon crisps and cheese curls), other similar snack foods or popped popcorn and brittle pretzels. However, as an exception to the exclusion in paragraph 1(f), if any of these products are sold primarily as a breakfast cereal, they remain zero-rated.

The following factors may be used to determine if a particular product is similar to a chip, crisp, puff, curl or stick as described under paragraph 1(f) of Part III of Schedule VI:

- **Properties (Ingredients, Flavours, Texture, Cooking Process and Appearance)**
 - Ingredients
 - Potatoes
 - Corn
 - Corn meal

Please note that products that are enumerated under paragraph 1(f) have one of the above ingredients as a main ingredient. However, inclusion of ingredients not listed above would not preclude a particular product from falling within paragraph 1(f). For example, a product that has rice as its main ingredient could still fall under the expression “other similar snack food” based on the application of the remaining factors.

- Flavours
 - In addition to salty, the product is available in flavours such as salt & vinegar, barbecue, all-dressed, cheese, nacho, ketchup, pizza, sour cream and onion, etc.
- Texture
 - Crispy, crunchy, brittle, fluffy.
- Cooking Process
 - Deep fried, or
 - Baked.¹
- Size & Shape
 - Small, thin, slice, (chip)
 - Long and slender cylindrical form, (stick)
 - Fluffy mass, (puff)
 - Spiral or winding form, (curl).

Furthermore, after reviewing the properties of a product, CCRA will consider the following factors related to labelling, packaging and marketing:

It should be noted that no one factor is determinative of the tax status of a product and changes in the labelling, packaging and/or marketing would not necessarily result in a different tax status. That is, all factors must be considered in determining whether a product falls within paragraph 1(f).

- Labelling
 - The word “chip”, “crisp”, “puff”, “curl” or “stick” appears in the name of the product.
 - The word “chip”, “crisp”, “puff”, “curl” or “stick” appears elsewhere on the label, (e.g., “healthier than a chip” or “taste like a chip” or “part chip”).
 - The label includes words found on packages of chips, crisps, puffs, curls, or sticks (e.g., “snack”, “party snack”, “crunch”).

¹ The fact that a product is baked would not preclude it from falling within paragraph 1(f)/III/VI.

- **Packaging**
 - The product is packaged loosely in a bag.²

- **Marketing**
 - The advertising, whether through print or electronic media, includes words “chips”, “crisps”, “puffs”, “curls”, or “sticks” (e.g., chip-loving eaters, healthier than a chip).
 - The advertising, whether through print or electronic media, includes words found on packages of chips, crisps, puffs, curls or sticks (e.g., “snack”, “snack food”, “party snack”, “crunch”, “crispy”).

Example #1 – Product A

Statement of Facts

1. Product A ingredients include: enriched flour, vegetable oil shortening, potato flakes, etc.
2. Product A is available in six varieties: original, ranch, barbecue, all dressed, salt & vinegar and zesty cheese.
3. Product A is loosely bagged and sold in 200 gram packages in the cracker aisle of the supermarkets. It is also sold in small bags.
4. Each piece is comparable to the size of a potato chip.
5. Product A is described on its Internet site as “healthier than potato chips”.
6. Product A is labelled as “part chip and part cracker”; “made with potato like a chip”, “maximum crunch”. It is also described on the label as “wheat cracker snacks”, and “oven baked with wheat like a cracker”.

Decision

Based on the facts set out above, Product A is taxable at 7%, (or 15 % as applicable) pursuant to section 165 of the *Excise Tax Act*.

² The snack food industry incurs considerable costs for packaging snack food products. Since “prevention of damaged product” is the main determinant of the type of packaging rather than any intention of appearing similar to “chips”, “crisps”, “puffs”, “curls” or “sticks”, packaging is not considered a determinant criterion.

Rationale

Product A is considered to be a “similar snack food” for purposes of paragraph 1(f) of Part III of Schedule VI based on its properties. One of its main ingredients consists of potato (flakes), an ingredient common to those snack foods enumerated in paragraph 1(f). In addition, Product A is available in flavours that such snack foods are commonly made available. Also, the appearance (small thin slice) and the texture (crunchy) are similar to those products enumerated under paragraph 1(f). Finally, Product A is labelled and marketed in a manner similar to products enumerated under paragraph 1(f). Although we consider placement of a product in store aisles as a relevant consideration, it alone is not considered a determinative factor.

Example #2 – Product B

Statement of Facts

1. Product B ingredients include potato flakes, modified corn starch, vegetable oil shortening, sugar, processed oat product, sea salt, monocalcium phosphate, sodium bicarbonate, and soya lecithin.
2. It is available in six flavours: original with sea salt, sour cream and onion, cheddar and sour cream, barbecue, garden tomato and salt and vinegar.
3. Each piece is a small thin slice that is crispy.
4. Each piece is comparable to the size of a potato chip.
5. Product B is loosely packaged in 150 gram bags that are placed in store aisles near other products labelled as crackers (e.g., saltine crackers).
6. Product B is labelled as “potato thins that are baked not fried”. The bottom of the package describes the product as “potato snack crackers”. It also mentions that it is “50% less fat than regular potato chips”.
7. Product B is promoted as a “healthier snack than regular potato chips”.
8. The Internet web site of Product B advertises that the product is “50% less fat than regular potato chips”.

Decision

Based on the facts set out above, Product B is taxable at 7%, (or 15 % as applicable) pursuant to section 165 of the *Excise Tax Act*.

Rationale

Product B is considered to be a “similar snack food” for purposes of paragraph 1(f) of Part III of Schedule VI based on its properties. The main ingredient consists of potato (flakes), an ingredient common to those snack foods enumerated in paragraph 1(f).

In addition, Product B is available in flavours that such snack foods are commonly made available. Also, the appearance (small thin slice) and the texture (crispy) are similar to those products enumerated under paragraph 1(f). Finally, Product B is labelled and marketed in a manner similar to products enumerated under paragraph 1(f). Although we consider placement of a product in store aisles as a relevant consideration, it alone is not considered a determinative factor.

Example #3 – Product C

Statement of Facts

1. Product C ingredients include: enriched wheat flour, vegetable oil shortening, sugar, glucose-fructose, salt, malt flour, monocalcium phosphate, sodium bicarbonate, ammonium bicarbonate, soya lecithin, protease.
2. Product C comes in three flavours, Regular, Pizza and Mega Cheese.
3. Product C is small in size and contains no filling.
4. Product C is labelled as follows: “crackers”, “Watch out for the outrageous taste of Product C”, “The Product is packed full of flavour that will tickle your taste buds to the max”.
5. Product C is sold loosely in 200 gram bags in the cracker section of the supermarket.

Decision

Based on the facts set out above, Product C is zero-rated under section 1 of Part III of Schedule VI to the *Excise Tax Act*.

Rationale

The above facts demonstrate that Product C has different properties than those found in products enumerated under paragraph 1(f). Furthermore, the omission of words on the labelling and marketing material of Product C that are usually used with products enumerated under paragraph 1(f), indicates that Product C is not similar to those products enumerated under paragraph 1(f).

Example #4 – Product D

Statement of Facts

1. Product D ingredients are: enriched flour, vegetable oil shortening, whey powder, cheddar cheese (or peanut butter), sugar, glucose-fructose, salt butter, buttermilk powder, monocalcium phosphate, baking soda, ammonium bicarbonate, soya lecithin, sodium phosphate, maltodextrin, papain, protease, natural flavour.

2. Product D is labelled as “cracker” and is filled with either cheese or peanut butter.
3. Product D is sold in 250 gram boxes in the cracker section of the supermarket. It is also sold in 50 g bags.
4. Product D is marketed as “fun snacking made easy”, “a tasty choice for family snacking”, “at home or on the go”.

Decision

Based on the facts set out above, Product D is zero-rated under section 1 of Part III of Schedule VI to the *Excise Tax Act*.

Rationale

The above facts demonstrate that Product D has different properties than those found in products enumerated under paragraph 1(f). Furthermore, the omission of words on the labelling and marketing material of Product D that are usually used with products enumerated under paragraph 1(f), indicates that Product D is not similar to those products enumerated under 1(f).

Example #5 – Product E

Statement of Facts

1. Product E main ingredients include potato pieces, rice pieces and seasonings.
2. Flavours include: barbeque, salt & vinegar, original, ketchup and nacho cheese.
3. It has a unique, crispy, crunchy texture.
4. The product is loosely bagged and sold in 140 gram bags.
5. Product E is labeled as “potato crisps”, “baked not fried” “bold chip flavours, bite-sized, light and crunchy and low in fat”.
6. Product E is promoted on the label as “...take the taste and crunch of potato chips and give them a whole new spin” and “bite sized potato crisp”.

Decision

Based on the facts set out above, Product E is taxable at 7%, (or 15 % as applicable) pursuant to section 165 of the *Excise Tax Act* (the “Act”).

Rationale

Product E is considered to be a “similar snack food” for purposes of paragraph 1(f) of Part III of Schedule VI based on its properties. One of the main ingredients of Product E is potato (pieces), an ingredient common to snack foods enumerated under paragraph 1(f). In addition, Product E is available in flavours that such snack foods are commonly made available. Also, the appearance (bite-size) and texture (crispy, crunchy) are similar to those products enumerated under paragraph 1(f). Finally, Product E is labelled and marketed in a manner similar to products enumerated under paragraph 1(f).

Example #6 – Product F

Statement of Facts

1. Product F ingredients include: rice, corn, water, seasoning blend, sunflower oil.
2. Product F is available in barbecue, salt and vinegar, cheddar cheese, sour cream and onion.
3. Each piece is comparable to the size of a potato chip.
4. Product F is loosely bagged and sold in 100 gram packages.
5. Product F is labelled as “The Rice Snack that Eats Like a Chip”, “Intense Chip Flavours”, “Great Chip Crunch”, “Delicious, Low-Fat Rice Snack”.
6. Product F is advertised in a magazine as: “Seven reasons potato chips are shaking in their bags”, “intense chip flavours. And a great chip crunch...”, “Experience the evolution of snacking”.

Decision

Based on the facts set out above, Product F is taxable at 7%, (or 15 % as applicable) pursuant to section 165 of the *Excise Tax Act* (the “Act”).

Rationale

Product F is considered to be a “similar snack food” for purposes of paragraph 1(f) of Part III of Schedule VI based on its properties. One of the main ingredients of Product F is corn, an ingredient common to snack foods enumerated under paragraph 1(f). In addition, Product F is available in flavours that such snack foods are commonly made available. Also, the appearance (size) and texture (crunchy) are similar to those products enumerated under paragraph 1(f). Finally, Product F is labelled and marketed in a manner similar to products enumerated under paragraph 1(f).

Example #7 – Product G

Statement of Facts

1. Product G ingredients include: peas, starch, canola oil, sugar, wheat flower, salt, monosodium glutamate, horse radish and tartrazine.
2. Product G is loosely bagged and sold in 120 gram packages.
3. Product G is labelled as “The Snack That is a Healthy Alternative”, “Craving for Something Different”, “Great Tasting Snack”.
4. Product G is advertised on Internet as: “Crunchy Delicious Snack”, “Snackers in the mood for something a little bit different”, “They're just like spicy hot peanuts, only green!”

Decision

Based on the facts set out above, Product G is taxable at 7%, (or 15 % as applicable) pursuant to section 165 of the *Excise Tax Act* (the “Act”).

Rationale

Product G is considered to be a “similar snack food” for purposes of paragraph 1(f) of Part III of Schedule VI. After reviewing the properties of the product, factors related to labelling, packaging and marketing were considered. The inclusion of phrases such as “snack”, “craving for something different”, “great tasting snack” on the label and “Crunchy Delicious Snack”, “Snackers in the mood for something a little bit different”, “They're just like spicy hot peanuts, only green!” in advertising on the Internet, indicates that Product G is labelled and marketed in a similar manner to those products enumerated under paragraph 1(f).