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SC TECHNICAL ADVICE MEMORANDUM #88-6

TO: Mr. William R. Geddings, Jr., Director
Office Services Division

FROM: Jerry B. Knight, Manager
Tax Policy and Procedures Department

DATE: February 10, 1988

SUBJECT: Fuel Used for Roasting of Coffee Beans

REFERENCE: S.C. Code Ann. Section 12-35-550(18) (1976)

AUTHORITY: S.C. Code Ann. Section 12-3-170 (1976)
SC Revenue Procedure #87-3

SCOPE: A Technical Advice Memorandum is a temporary document issued to an individual within the Commission, upon request, and it applies only to the specific facts or circumstances related in the request. Technical Advice Memoranda have no precedential value and are not intended for general distribution.

Question:

Are the gross proceeds of sales of fuel used to roast coffee beans exempt from taxation as provided at Code Section 12-35-550(18)?

Facts:

The ABC Company has requested a refund of sales taxes paid to South Carolina Electric and Gas Co. on purchases of propane gas. Such gas is used in the roasting of coffee beans at ABC's facility in South Carolina. South Carolina Electric and Gas Co. have assigned to The ABC Company its refund rights. Such an assignment is recognized in this State. See *Slater v. South Carolina Tax Commission*, 280 S.C. 584, 314 S.E. 2d 31 (Ct. of Appeals, 1984).

The mechanics of the roasting process are fairly simple. Green beans are cycled through a large oven and then either stored for later use or packaged and shipped. However, a document obtained from the National Coffee Association of U.S.A., Inc. reads, "[r]oasting does more than merely heat the green beans. Chemical changes occur, and these changes affect flavor, color and other characteristics which in turn affect the marketability of coffee." The document also states "green coffee cannot be consumed as a food or a beverage."

Code Section 12-35-550(18) provides an exemption for "the gross proceeds of the sale of fuel for use exclusively in the curing of agricultural products." Therefore, it must be determined whether or not the roasting process constitutes "curing".

Discussion:

One of the primary rules of statutory construction is that words used in a statute should be taken in their ordinary and popular meaning, unless there is something in the statute which requires a different interpretation. Hughes v. Edwards, 265 S.C. 529, 220 S.E. 2d 231; Investors Premium Corp. v. South Carolina Tax Commission, 260 S.C. 13, 193 S.E. 2d 642. Also, where the terms of a statute are clear and unambiguous and leave no room for construction, they must be applied according to their literal meaning. Mitchell v. Mitchell, 266 S.C. 196, 222 S.E. 2d 217; Green v. Zimmerman, 269 S.C. 535, 238 S.E. 2d 232.

The Code does not provide a definition for the term "curing"; therefore, it is necessary to determine its "ordinary and popular meaning".

It is an accepted practice in South Carolina to resort to the dictionary to determine the literal meaning of words used in statutes. For cases where this has been done, see Hay v. S.C. Tax Commission, 255 S.E. 2d 837; Fennell v. S.C. Tax Commission, 102 S.E. 2d 424; Etiwan Fertilizer Co. v. S.C. Tax Commission, 60 S.E. 2d 682.

Webster's Seventh New Collegiate Dictionary defines "cure" as, "to prepare by chemical or physical processing for keeping or use."

Conclusion:

The roasting of coffee beans is a physical process necessary to make the beans ready for use in the making of coffee. Therefore, the roasting process constitutes the "curing of agricultural products" [Code Section 12-35-550(18)] and the purchases of fuel for such use are exempt from taxation.