



PRUNINGS

KEEPING YOU UP TO DATE



Monday 16 October 2017

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Commodity Levy Order Amendment delay

As you know, we need to amend the Summerfruit Commodity Levy Order to address a wording issue that has arisen around the correct deduction of the levy on exports.

In essence the current wording, if applied to the letter of the law, requires exporters to deduct the levy differently to how the levy is deducted from local market sales. Clearly this is inequitable and is certainly not how we believe the levy should be deducted.

Having resolved the problems we encountered in late August, we now plan to conduct a referendum over the next three weeks. Voting will open later this week.

Remind me – why amend the levy?

1. To fix a conflicting definition in the current levy Order on how levy is deducted on export sales.
2. To ensure that all growers pay the levy in the same way.

The levy referendum will specifically focus on:

- removing *FOB*, from the definitions in our levy Order, and
- changing the definition of *selling price*.

So how do I vote?

We are once again using an online voting system. The independent company that is managing the vote will send you voting details. They will also send you a paper copy if you prefer to vote that way. Obviously, you can only vote once! If you voted in the 2013 levy referendum

It's been a couple of months, since our last notice, so a reminder what this levy referendum is all about

A review of the levy collection process and the wording of the Summerfruit Commodity Levy Order (2014) raised questions about whether the Summerfruit Commodity Levy is being calculated consistently by all collection agents. In particular, it was found that the interpretation of the **FOB value** is not precise and is open for different interpretations.

The definition of FOB value in the Order is:

FOB value means the value of the summerfruit specified in the declaration in, attached to, or forming part of, the **customs entry** (i.e. before the deduction of any costs or charges).

It has always been our intention that the levy should be based on the *grower return*, i.e. after costs and any losses have been accounted for. We're pretty sure that growers believe that this is how their levy should be deducted.

However, it is MPI's legal opinion that this practice differs from the definition of FOB in the Summerfruit Commodity Levy Order (2014). They inform us that 'grower return' is an incorrect interpretation of FOB and should not be used. So unless we amend the levy, then it will need to be deducted using MPI's interpretation. This will lead to export growers paying more levy.

We discussed this issue with growers at the AGM and they agreed that the levy Order needed to be sorted out now and passed a motion in favour of conducting this referendum.

For more detail on this issue see the article on the July edition of [Summerfruit](#).

then you'll remember that the online voting is *really* easy.

The voting paper will ask you to vote either

- YES which means you support the amendment, or
- NO which means that you are against amending the levy.

If I vote NO, will I pay *more* or *less* levy?

If you are an export grower you will be paying levy that is inclusive of all costs. So you will pay more levy.

If I vote YES will I pay more or less levy?

You will pay the same as you are now.

What will be different if I vote YES (i.e. for the amendment)?

You shouldn't notice any difference as this is how the majority of exporters have been deducting the levy up until now.

Some important points

- All growers can vote in this referendum whether they currently export or not.
- There will be no change to any other parts of the Summerfruit Commodity Levy Order.
- If growers vote *No* (i.e. against) this referendum, the levy stays in place and continues to be collected.

Levy amendments – leading the way again

This is the first time that any industry has sought to amend a Levy Order. So we are covering new ground for both us and MPI. Therefore, it would be great to have a good turnout for this vote, to show MPI that there is strong support for the amendment. If you are an export grower we would suggest that it is in your interest to vote in this referendum.

And the results?

The results will be published on the website as soon as they are available. We promise that no coalition deals will be entered into.

Got any questions?

If you have any questions about the vote or how the levy is applied please feel free to contact me at marie@summerfruitnz.co.nz or 04 830 0935. Or you can go to our website. Once the vote is open additional info will be available there.

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