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summerfruit

commodity levy referendum



SECTION A: General information for the ballot paper for Summerfruit NZ Incorporated

DETAILS ON THE PROPOSED COMMODITY LEVY ON SUMMERFRUIT

1. Reason for Support Referendum

To ascertain the level of support from potential levy payers for a commodity levy on summerfruit produced in New Zealand for commercial purposes.

The existing levy order on summerfruit will expire on 28th of September 2014 and the levy order proposed in this ballot paper will replace it. The levy is proposed in order to fund activities carried out by Summerfruit New Zealand Incorporated ("Summerfruit NZ") on behalf of New Zealand summerfruit growers.

2. Who would the levy be paid to?

Summerfruit NZ Incorporated
Phone: 04 494 9975
PO Box 2175
Wellington 6140
e-mail: marie@summerfruitnz.co.nz
Website: www.summerfruitnz.co.nz

3. What commodity will the levy be collected on?

The commodity to be levied is summerfruit namely: peaches, nectarines, plums, apricots, cherries and the hybrids thereof.

The levy will be imposed on summerfruit produced in New Zealand for commercial purposes. Commercial purposes means that fruit which is:

- sold within New Zealand for consumption as whole fresh fruit, or
- sold for resale as whole fresh fruit, or
- exported as whole fresh fruit, or
- sold as whole fresh fruit within New Zealand for processing, or
- processed before sale.

4. Who will pay the levy?

All growers producing summerfruit for commercial purposes will primarily be responsible for paying the levy.

Any levy payer or collector who objects on conscientious or

religious grounds to paying the levy in the manner provided for by the proposed levy order will be able to pay the levy to the Chief Executive of the Ministry for Primary Industries. In such cases the Chief Executive will on-pay the levy to Summerfruit NZ.

5. How will the levy be calculated?

The levy will be calculated as a percentage of gross value at the first point of sale (exclusive of GST) except where:

- summerfruit is exported whole prior to the first point of sale when the levy will be calculated as a percentage of the Free On Board (FOB) value (exclusive of GST); or
- summerfruit is processed prior to the first point of sale when the levy will be calculated based on the notional process value of the fruit that, in the opinion of Summerfruit NZ, the grower would reasonably expect to pay for summerfruit had they the need to purchase it for processing (exclusive of GST).

The calculation of the levy would be based on the selling price together with the value of:

- any other payments made to the grower by the purchaser in relation to, or in connection with, the sale of summerfruit; or
- any goods or services provided to the grower by the purchaser in relation to, or in connection with, the sale of summerfruit free of charge or below market value.

6. How much will the levy be?

The levy will be paid at two rates.

- For apricots, nectarines, peaches and plums and the hybrids thereof the maximum rate will be 1.75% plus GST. Initially the rate of the levy is proposed to be 1.5% plus GST.
- For cherries the maximum rate will be 1.0% plus GST. Initially the rate of the levy is proposed to be 0.75% plus GST.

7. Are there any exemptions from paying the levy?

Growers who sell summerfruit to Heinz Wattie's Limited on contract for processing will be exempt from payment of the levy on the condition that:

- Heinz Wattie's imposes a research and development levy on persons selling summerfruit to it on contract for processing; and
- The rate of the research and development levy is equal to or greater than the relevant levy rate set under this order; and
- Heinz Wattie's makes available to Summerfruit NZ the research information arising from its use of the research and development levy.

Summerfruit NZ will suspend this exemption if the above conditions are not met.

Summerfruit NZ will notify growers if the exemption is suspended, or no longer applies, or if it is subsequently reinstated.

8. How will the actual levy rate be set?

The initial rate, once approved according to the rules of Summerfruit NZ, will be effective from the time Summerfruit NZ notifies the rate.

At any Annual General Meeting or Special General Meeting, in accordance with the rules, Summerfruit NZ will be able to alter the rate for the following year, so that it is either below or at the maximum rate. If for any reason a rate is not set at the AGM or SGM, then the levy rate remains at the rate last set.

The levy year refers to the 12 months between 1 September and 31 August except in the first year of the levy which will be from the commencement of the proposed levy order to 31 August 2015.

9. How will I be notified of the rate?

As soon as practicable after fixing the levy rate in any year, Summerfruit NZ will give notice of the rate in the New Zealand Gazette and the industry publication produced by Summerfruit NZ and the Summerfruit NZ website, www.summerfruitnz.co.nz.

10. What will the levy be spent on?

The general purposes for which Summerfruit NZ may spend the levy are:

- research including market research
- development of products
- development of markets
- protection or improvement of plant health
- development and implementation of quality assurance programmes
- education, information, or training
- administration of Summerfruit NZ.

The levy will not be spent on any commercial or trading activity. Summerfruit NZ will spend all levy money paid to it, or invest it pending its expenditure. Summerfruit NZ does not intend to create substantial reserves from funds collected from levy.

11. Can I have a say on how the levy will be spent?

Each year prior to its Annual General Meeting, Summerfruit NZ will distribute the accounts for the past year and spending proposals for the following year. Levy payers will be able to discuss expenditure of the levy at this meeting, and special meetings which may be called from time to time as necessary, according to the rules of Summerfruit NZ.

12. How will I pay the levy?

Where growers have direct sales, other than to a collection

agent, those growers will deduct levy from those sales and pay the levy directly to Summerfruit NZ. Direct sales includes:

- i. growers own roadside sales
- ii. farmers markets
- iii. flea markets
- iv. sales conducted by electronic means including via the internet
- v. supply to retail outlets.

In the case of grower-processors the levy is to be paid directly to Summerfruit NZ.

In other cases the levy is to be recovered and paid to Summerfruit NZ by the collection agent.

Growers and collection agents may submit levies either via the Summerfruit NZ website www.summerfruitnz.co.nz or using paper forms downloaded from the website, or requested from Summerfruit NZ. Using either the website or the paper form, collection agents will declare the amount of levy collected on growers' behalf and growers will declare any levy due on direct sales.

13. When are the levy payments due?

The levy is to be paid monthly. The due date of payment of the levy is the day on which the fruit is sold or processed or exported. The latest day for payment of the levy is the 20th day of the month following sale.

A penalty of 5% of the entire amount of the levy which remains unpaid on the latest day for payment will be payable. In addition, a penalty of 2% per month will be payable on the unpaid amount of levy (not including any penalties) which is not paid within a month after the last day for payment.

14. What is a collection agent?

A collection agent is a person whose business is or includes:

- i. buying summerfruit from a grower for resale fresh or export fresh or for processing for sale; or
- ii. selling or exporting or processing summerfruit on behalf of a grower.

Collection agents include brokers, wholesalers, merchants or exporters.

Where a grower sells summerfruit to another grower for resale, the receiving grower shall be considered to be the collection agent.

15. Will collection agents receive a collection fee?

- i. a collection agent paying the levy may deduct from the levy a collection fee of not more than 4% of the amount of the levy (exclusive of GST) plus the GST payable on the fee
- ii. no grower who pays the levy directly to Summerfruit NZ may deduct a collection fee.

16. What information must collection agents supply to Summerfruit NZ?

Collection agents must provide the following information to Summerfruit NZ for the purposes of determining the amounts of levy payable:

- the name of the grower
- the quantity of the commodity purchased and sold, exported or processed by fruit type
- the rate at which the levy was collected
- the price received or paid, or value placed on each fruit type
- the amount of levy collected and paid to Summerfruit NZ
- the amount of the collection fee (if any).

17. What records have to be kept?

All those involved in collecting or paying the summerfruit levy would need to keep the following information for at least two years after the date of payment of the levy to Summerfruit NZ.

Growers would retain:

- the name and contact details of any collection agent (if any)
- the quantity of the commodity sold by fruit type
- the price received or value placed on the summerfruit
- the rate at which the levy was collected
- the amount of levy paid to Summerfruit NZ.
- a copy of every levy form submitted to Summerfruit NZ.

Collection agents would retain:

- the name and contact details of the grower
- the quantity of the commodity purchased and sold
- the rate at which the levy was collected
- the price received or paid, or value placed on the summerfruit
- the amount of levy collected and paid to Summerfruit NZ
- the amount of the collection fee (if any)
- a copy of every levy form submitted to Summerfruit NZ.

Summerfruit NZ would retain:

- the name and contact details of the grower, or collection agent (if any)
- the price received or paid, or value placed on the summerfruit
- the amount of levy collected and paid to Summerfruit NZ

- the amount of the collection fee (if any)
- information on how the levy is spent
- a copy of every levy form submitted to Summerfruit NZ.

Every grower and collection agent must, as soon as is reasonably practicable after receiving Summerfruit NZ's written request for the grower or collection agent to do so, give Summerfruit NZ written notice of any information Summerfruit NZ needs to enable it to calculate any amount of levy payable.

18. What will happen to the information on me that is collected?

Some information would be gathered when collecting the levy. Unless required to do so by law, or with the consent of the individuals concerned Summerfruit NZ or collection agents would be obliged to keep the information confidential. This would not prevent Summerfruit NZ from disclosing such information:

- for the purpose of producing records or accounts under section 17(1) of the Commodity Levies Act 1990 (which relates to the rights of the Minister to have accounts audited);
- for the purpose of producing any statement under section 25 of the Commodity Levies Act 1990 (which relates to annual reports and statements);
- which is necessary in the giving of evidence in any legal proceedings taken under or in relation to this order, or under the Commodity Levies Act 1990 in relation to this order;
- for statistical or research purposes but in such a form that does not identify any individual levy payers or levy collectors;
- to assist in the invoicing and collection of levies.

SUMMERFRUIT NEW ZEALAND INCORPORATED REFERENDUM VOTING PAPER INSTRUCTIONS

You can vote in one of three ways:

e-Vote, Fax or Postal Vote.

1 e-Vote

Go to www.summerfruitnz.co.nz

You will be asked to enter a PIN and password. Your unique PIN and password are listed on the voting paper overleaf.

2 Fax

Detach and fax the completed voting paper to:

0528 233 532 869

3 Postal Vote

Follow the instructions opposite to post the completed Voting Paper back to the Returning Officer in the freepost envelope provided.

Postal Voting Instructions

Please read carefully before voting

- 1 Read the details on the proposed commodity levy in this booklet.
- 2 Complete sections B and C of the voting paper overleaf. If you do not complete Section B and C your vote will be invalid.
- 3 An incomplete or incorrectly completed voting paper, with respect to the levy proposal, which is returned will be counted as a vote **against** the proposal.
- 4 After voting carefully detach the voting paper along the indicated perforation and place only the voting paper in the enclosed freepost envelope and post it to the Returning Officer.
- 5 All voting papers must be in the hands of the Returning Officer no later than midday on Friday 29 November 2013.
- 6 If you spoil or destroy the voting paper, call the Election Helpline to receive a replacement paper on: 0508 666 886.

Please note that the last day for posting voting papers so that they reach the Returning Officer by the close of voting is Tuesday 26 November 2013.

Voting paper overleaf >>

Please read carefully

- If you are a potential levy payer and wish to vote you must complete Section B.
- If you do not complete Section B and C your vote will be invalid.
- An incomplete or incorrectly completed voting paper, with respect to the levy proposal, which is returned will be counted as a vote against the proposal.
- All questions must be answered fully.
- Voting papers may be subject to independent audit.
- Only those who are currently in the business of producing summerfruit for commercial purposes are eligible to vote in this referendum.

e-Vote Details

log on to:

www.summerfruitnz.co.nz

Your unique voting PIN and password are:

PIN	123456
Password	abcd

SECTION B: Declaration

Please ensure that you include all summerfruit sales, including those sold on the NZ domestic market, processed or exported. Sales of product sold to Heinz Wattie's for processing must be declared separately.

1(a) My total gross sales of all summerfruit produced in New Zealand (excluding that sold to Heinz Wattie's for processing) over the 12 months prior to 31 August 2013 were: (tick one circle only)

- | | | | |
|---|---|---|---|
| <input type="radio"/> \$0 - \$50,000 | <input type="radio"/> \$50,001 - \$100,000 | <input type="radio"/> \$100,001 - \$150,000 | <input type="radio"/> \$150,001 - \$250,000 |
| <input type="radio"/> \$250,001 - \$500,000 | <input type="radio"/> \$500,001 - \$750,000 | <input type="radio"/> \$750,001 - \$1,000,000 | <input type="radio"/> \$1,000,001 - \$1,500,000 |
| <input type="radio"/> \$1,500,001 - \$2,500,000 | <input type="radio"/> \$2,500,001 - \$5,000,000 | <input type="radio"/> \$5,000,001+ | |

1(b) Heinz Wattie's suppliers only. Please declare your total sales to Heinz Wattie's for processing over the 12 months prior to 31 August 2013. This volume is separate from that which is declared above. (tick one circle only)

- | | | | |
|---|---|---|---|
| <input type="radio"/> \$0 - \$50,000 | <input type="radio"/> \$50,001 - \$100,000 | <input type="radio"/> \$100,001 - \$250,000 | <input type="radio"/> \$250,001 - \$500,000 |
| <input type="radio"/> \$500,001 - \$750,000 | <input type="radio"/> \$750,001 - \$1,000,000 | <input type="radio"/> \$1,000,001+ | |

2 Declaration: (Each trading enterprise is entitled to one vote)

I hereby declare: (a) I am authorised to exercise the vote for the enterprise that received this voting paper
 (b) That I am or this enterprise is currently in the business of producing summerfruit for commercial purposes
 (c) The information supplied is true and correct to the best of my knowledge.

Name or Trading Name:

(may be individual, partnership, company, trust or other)

Signed:

Date:

SECTION C: Voting paper

The question in this section is for you to indicate if you support paying the levy under the Commodity Levies Act 1990.

3 I support paying a compulsory levy on summerfruit grown in New Zealand for the funding of industry-good activities as outlined in this ballot paper.

*(Place a tick neatly in **one** of the circles below)*

- YES NO

**DEADLINE FOR RETURN TO THE RETURNING OFFICER:
FRIDAY 29TH OF NOVEMBER 2013 AT MIDDAY**

**FOR ASSISTANCE PHONE THE ELECTION HELPLINE:
0508 666 886**

Summerfruit NZ Incorporated, Level 4, Cooperative Bank House, 20 Ballance St, Wellington 6140, advises that the information in this voting paper is being collected to satisfy the requirements of Part 1 of the Commodity Levies Act 1990. The supply of the information is voluntary but, without it, your vote is invalid and cannot be used towards seeking approval of a levy order. Upon the levy order sought having been confirmed by Act of Parliament the voting papers will be destroyed. The information will not be disclosed to any person or association other than Summerfruit NZ Incorporated.

