
STATES OF JERSEY



GOODS AND SERVICES TAX: EXEMPTION OR ZERO-RATING FOR HEALTH FOODS (P.81/2011) – RESPONSE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES

**Presented to the States on 7th May 2014
by the Minister for Health and Social Services**

STATES GREFFE

REPORT

Introduction

In response to P.81/2011 [Goods and Services Tax: exemption or zero-rating for health foods] requesting the compilation of a list of 'healthy foods', the Public Health team led by the Medical Officer of Health undertook a review of international evidence of practice and policy approaches. The conclusion of the review was that it is neither feasible, practical nor desirable to develop a list of 'healthy foods'. This report recommends that if improved health outcomes were the intention of producing a list of 'healthy foods', then priority should instead be given to supporting the development of a new States of Jersey Food and Nutrition Strategy.

Background

On 16th September 2011, States Members debated P.81/2011.

The Assembly voted in favour of –

- “(a) to request the Minister for Health and Social Services to present to the Assembly within 12 months a report listing those foodstuffs that can be defined as ‘healthy foods’;”.

The Assembly voted against –

- “(b) to agree that the healthy foods as listed by the Minister for Health and Social Services should be exempted or zero-rated for the purposes of Goods and Services Tax (GST) from 1st January 2013, and to request the Minister for Treasury and Resources to bring forward for approval the necessary legislation as part of the Budget 2013 proposals to give effect to the decision.”.

It has been recognised at the outset that there would be considerable challenges in attempting to define any list of 'healthy foods'. No definitive list exists anywhere in the world. There is no realistic means of devising a list that would not be accompanied by negative effects and unintended consequences. It has not been achieved anywhere internationally with links to measurable improvements in health outcomes. In fact, any one element of a diet consumed out of balance can lead to negative health consequences. Considerable evidence shows it is a balance and range of food in a diet that contributes positively to health. It is recognised that there has been a considerable time lapse between the original Proposition and this response, which is regrettable. However, this is a complex matter that has required a considerable amount of international research.

The review of the policy approaches and evidence base that has been carried out by the Public Health Directorate analysed the likely benefits, disadvantages and risks of possible approaches to identifying any 'healthy food list'. Further background can be found in the appended review.

Conclusion

The conclusion of this review, that it is neither feasible, practical nor desirable to develop a list of 'healthy foods' was presented to and accepted by the Council of Ministers on 12th March 2014.

It was agreed that further work is unwarranted in the pursuit of a list of 'healthy foods', and that priority in 2014 should be given to beginning the development of a comprehensive Food and Nutrition Strategy for Jersey, built on an evidence-based, multi-agency approach to promoting good nutrition and healthy weight.

Deputy A.E. Pryke of Trinity
Minister for Health and Social Services

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REPORT

1. Purpose

The purpose of this paper is to outline options for defining a list of 'healthy' foods. The advantages, disadvantages and risks associated with each option are also outlined to assist discussion. This paper does not include a discussion of the evidence base regarding the impact of fiscal policy on revenue or dietary consumption.

2. Background

In May 2011, former Deputy S. Pitman of St. Helier lodged a proposition: P.81/2011, 'Goods and Services Tax: exemption or zero-rating for health foods'. The proposition requested that the Minister for Health and Social Services present to the Assembly, (within 3 months) a report listing those foodstuffs that can be defined as 'healthy foods' (Appendix A). Paragraph (a) of the proposition, with an amended timescale of 12 months, was adopted by the States on 16th September 2011, although paragraph (b), requesting that the healthy foods listed should be exempt or zero-rated for the purposes of GST from 1st January 2013, was rejected.

The ambiguity in defining healthy and unhealthy foods makes it extremely difficult to create a definitive list. Many foods are composed of some elements that are considered to contribute to health and others which are considered detrimental, i.e. cheese is a good source of dietary calcium, but is also high in saturated fats.

Nutrition experts tend to talk about 'healthy balanced diets' rather than 'healthy foods'. The Eatwell Plate demonstrates that foods from a variety of food groups are required for a healthy diet, including a small proportion of those high in fat and sugar.

Identifying a definition is also complicated by the need to consider the 'when', 'where' and 'for whom' a food is healthy. Full fat milk is recommended for those under 2 years of age, but skimmed or semi-skimmed is the recommendation for those over the age of 5 years. In addition, dieticians may recommend calorie-dense, high-fat foods for certain undernourished patients, depending on their individual needs.

3. Approaches for defining a list of 'healthy foods'

The main approaches for defining healthy foods are either to calculate the exact nutrient value of individual foods or food products, or broadly to identify foods through either 'nutritional' food groups or retail categories.

Approach 1: Defining healthy foods by nutrient value

Defining individual foods by their nutrient value is one approach for categorising foods as 'healthier' or 'less healthy'. Focusing on only one nutrient, such as saturated fat content, is inadvisable, as it could lead to an increased consumption of salt products, therefore increasing risk of death from cardiovascular disease. It may also encourage the food industry to replace saturated fats with trans-fats or artificial additives to improve texture/taste. Using a model that considers the complete nutrient profile of a food product would be the most accurate means of categorising foods.

Food Standard Agency's (FSA) Nutrient Profiling Model

The Nutrient Profiling Model defines foods classified as HFSS (high fat, salt, sugar) by using a complex formulae to assess the nutrient profile of individual products and give them a numerical score that labels them as 'less healthy' or 'healthier' (Appendix B). This model is used by OFCOM to assess products suitable for advertising during children's programming.

Advantages:

- Allows all products to be assessed individually rather than included in a general 'category', thereby reducing the risk of inaccurate taxation, misleading messages and subsequent adverse reaction from manufacturers.

Disadvantages:

- Implementation cost of applying the nutrient profiling model to all existing food products, as well as products new to the market, would be considerable and would need to be borne by either the States or the manufacturer. The major retailers in Jersey have approximately 17,000 – 21,000 different products, half of which are food. (For OFCOM purposes, the profiling is the responsibility of the manufacturer.)
- Manufacturers frequently change their production processes, and the resulting change to the nutritional content of foods would need to be re-assessed.
- There are approximately 1,500 new products introduced into Jersey supermarkets each year – the delay between national marketing campaigns and local availability would further increase if products were required to be analysed for a health rating.
- Nutrition guidelines for the whole population may have different criteria than that developed by FSA for food suitable for advertising to children, i.e. fats and oils would not be advertised to children, but there may be merit in promoting some oils over others for adults.

Approach 2: Defining healthy food by nutritional food groups or retail categories

Categories of foods, as opposed to individual product profiles, could be used to define groups of foods which were deemed healthy.

This approach has more commonly been used by legislative bodies to apply additional tax to selected items. For example, several countries have found it more practical to tax a small number of well-recognised *categories* of food that play little useful role in nutrition, rather than try to define all products based on their health value. Categories most commonly taxed at a higher rate in other jurisdictions include snacks, confectionary (chocolate and sweets) and soft drinks.

The challenge in using the 'food groups/category' approach lies in the extensive variety of products within each group and the variations in the way in which food items are presented. For example, fish would classify as a healthy food under this approach, and would ideally include fresh, frozen and tinned fish products. However, tuna can be canned in spring water, brine, oil or mayonnaise. Similarly, poultry, pork,

lamb and beef all contribute toward a healthy diet; however some cuts are much higher in saturated fat than others. The lack of clear definitions for the terms such as ‘processed’ and ‘lean’ creates further ambiguity.

Healthy foods defined according to nutritional food groups

Groups of food which have been shown via the evidence base to contribute towards a healthy balanced diet, have been identified in Appendix C. This draft list has been developed with advice and information from the States-registered dieticians at the General Hospital and the Food Standards Agency (FSA) in the UK.

The draft list represents 4 major food groups from the Eatwell Plate (FSA, 2007) and encompasses staple foods for a balanced diet. The list does not include any items from the FSA’s Eatwell Plate group of foods high in fat and sugar; however, variations of items within the recommended categories could contain high levels of fat, sugar or salt; for example, fruit tinned in syrup, cuts of red meat high in saturated fat, etc. Examples of areas requiring further consideration are highlighted in red within each category.

Advantages:

- Using food categories to create a list of healthy foods simplifies the process and is less time-consuming than calculating the nutrient profile of individual foods.

Disadvantages:

- This approach does not look at individual products and may result in misleading information to consumers, i.e. –
 - some excluded foods may be perceived to be ‘unhealthy’ even though they may still contribute to a healthy balanced diet, such as –
 - healthy breakfast cereals/porridge oats, etc.
 - composite foods based on healthy ingredients
 - full fat dairy products for under-2s
 - some foods may be included that are less healthy options within the category, i.e. –
 - fruit and vegetables that are canned with added salt/sugar
 - tuna canned in mayonnaise or oil rather than spring water.
- Retailers in Jersey all use a different categorisation system, potentially leading to different food products being exempted by different retailers.
- This approach does not help consumers distinguish between ‘healthier’ and ‘less healthy’ options in excluded food categories, i.e. oils, butter, margarine, etc.
- Need to monitor and ensure that all retailers classify individual foods in similar way.

- ‘Composite’ foods are excluded, although they may be composed of foods from the list of healthy items.
- More likely to result in opposition from elements of the food industry whose products have been excluded.

Approach 3: Identifying a single nutritional food group as a proxy for healthy food

All food groups have a role in a balanced and healthy diet; however, any of these food groups eaten out of balance can have negative health effects. The food group best placed as a proxy for healthy foods would be ‘Fruit and Vegetables’. However, boundaries still exist on the relative ‘healthiness’ of foods that would be considered within this food group, including: frozen, canned, dried and juice products, as well as variations such as fruit tinned in syrup or canned vegetables containing added salt and sugar.

Advantages:

- This approach would be simpler to administer due to decreased number of product lines.
- Guidance exists for defining fruit and vegetable products that would classify as one of the ‘5 a day’.

Disadvantages:

- Need to ensure consistency of categorisation across retailers.
- Would need careful consideration of borderline products within this food category.
- Inconsistent message regarding definition of ‘healthier’ foods within a healthy balanced diet.
- May result in opposition from producers/manufacturers of excluded categories (i.e. milk and dairy products) or excluded food item.
- Risk to health if shift to diets based exclusively or predominantly on fruit and vegetables.
- Likely opposition from producers/manufacturers of excluded categories (i.e. milk and dairy products) and other excluded food items considered part of a healthy balanced diet.

Approach 4: Adopting the existing UK VAT model

If the purpose of producing a list of healthy foods was to go on and zero-rate it for GST, then the UK VAT model may represent a pragmatic approach. Most food is VAT zero-rated in the UK, but there are some exceptions that attract standard-rate VAT of 20%. All food provided as catering, takeaway or in restaurants is subject to

VAT, as well as some food products that may be considered to be 'less healthy', such as confectionary, ice-cream and crisps (Appendix D).

It should be noted however, that VAT on food in the UK is not explicitly based on 'health' considerations, resulting in items such as biscuits and cakes classified as zero-rated, while mineral water and fruit juice are subject to VAT.

Advantages:

- The majority of food products in Jersey are imported from the UK with existing codes for VAT classification, allowing for ease of administration and consistency across retail outlets.
- Fewer manpower considerations as decisions on tax exemption of individual food products is undertaken by external agency.
- Certain categories of food considered to be 'less healthy' are subject to VAT, such as confectionary, ice-cream and crisps.

Disadvantages:

- VAT on food in UK is not explicitly linked to 'health'.
- Many 'less healthy' foods, which are common sources of saturated fat in the UK diet, are not subject to VAT, such as cakes, butter, biscuits, etc.
- Some 'healthier' items, such as mineral water and 100% fruit juice, are subject to VAT.
- Basing GST exemption on current VAT status would not be consistent with healthy-eating messages.

4. Fiscal policy considerations

The international evidence base for improving a population's nutritional intake via fiscal (tax) incentives is still evolving. Most of it is based on economic modelling studies. Some evidence indicates that fiscal policy in the form of increased tax (on unhealthy foods) combined with increased subsidy (on healthy foods) may have some impact on consumer purchasing. However, no evidence exists for changes in health behaviour or health improvement.

5. Conclusion

Following this review of options and policy approaches, it has been concluded that it is neither feasible, practical nor desirable to develop a list of 'healthy foods'. All possible approaches to devising a list would be accompanied by negative effects and unintended consequences. Furthermore, a 'healthy food list' has not been achieved anywhere internationally with links to measurable improvements in health outcomes.

6. Recommendations

Priority in 2014 should be given to supporting the development of a Food and Nutrition Strategy for Jersey, built on an evidence-based, multi-agency approach to promoting good nutrition and healthy weight.

**Head of Health Improvement
Public Health Officer**

2nd May 2014

STATES OF JERSEY



GOODS AND SERVICES TAX: EXEMPTION OR ZERO-RATING FOR HEALTH FOODS

Lodged au Greffe on 23rd May 2011
by Deputy S. Pitman of St. Helier

STATES GREFFE

2011

Price code: A

P.81

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to request the Minister for Health and Social Services to present to the Assembly within 3 months a report listing those foodstuffs that can be defined as ‘healthy foods’;
- (b) to agree that the healthy foods as listed by the Minister for Health and Social Services should be exempted or zero-rated for the purposes of Goods and Services Tax (GST) from 1st January 2012, and to request the Minister for Treasury and Resources to bring forward for approval the necessary legislation as part of the Budget 2012 proposals to give effect to the decision.

DEPUTY S. PITMAN OF ST. HELIER

APPENDIX B**Summary of FSA Nutrient Profiling Model**

There are 3 steps to working out the overall score of a food or drink.

1. Work out total 'A' points

A maximum of 10 points can be awarded for each nutrient.

Total 'A' points = (points for energy) + (points for saturated fat) + (points for sugars) + (points for sodium).

The following table indicates the points scored, depending on the amount of each nutrient in 100g of the food or drink:

Points	Energy (kj)	Sat. Fat. (g)	Total Sugar (g)	Sodium (mg)
0.....	>335.....	<1.....	<4.5.....	<90
1.....	>335.....	>1.....	>4.5.....	>90
2.....	>670.....	>2.....	>9.....	>180
3.....	>1,005.....	>3.....	>13.5.....	>270
4.....	>1,340.....	>4.....	>18.....	>360
5.....	>1,675.....	>5.....	>22.5.....	>450
6.....	>2,010.....	>6.....	>27.....	>540
7.....	>2,345.....	>7.....	>31.....	>630
8.....	>2,680.....	>8.....	>36.....	>720
9.....	>3,015.....	>9.....	>40.....	>810
10.....	>3,350.....	>10.....	>45.....	>900

If a food or drink scores 11 or more 'A' points, then it cannot score points for protein unless it also scores 5 points for fruit, vegetables and nuts.

2. Work out total 'C' points

A maximum of 5 points can be awarded for each nutrient/food component.

Total 'C' points = (points for % fruit, vegetable & nut content) + (points for fibre [either NSP or AOAC]) + (points for protein).

The following table indicates the points scored, depending on the amount of each nutrient/food component in 100g of the food or drink:

Points	Fruit, Veg. & Nuts	% NSP Fibre (g)	Or AOAC Fibre (g)	Protein (g)
0.....	<40.....	<0.7.....	<0.9.....	<1.6
1.....	>40.....	>0.7.....	>0.9.....	>1.6
2.....	>60.....	>1.4.....	>1.9.....	>3.2
3.....	–	>2.1.....	>2.8.....	>4.8
4.....	–	>2.8.....	>3.7.....	>6.4
5*.....	>80.....	>3.5.....	>4.7.....	>8.0

3. Work out overall score

- If a food scores less than 11 'A' points, then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium)

Minus

Total 'C' points (fruit, veg and nuts + fibre + protein)

- If a food scores 11 or more 'A' points but scores 5 points for fruit, vegetables and nuts, then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium)

Minus

Total 'C' points (fruit, veg and nuts + fibre + protein)

- If a food scores 11 or more 'A' points, and less than 5 points for fruit, vegetables and nuts, then the overall score is calculated as follows:

Total 'A' points (energy + saturated fat + sugars + sodium)

Minus

Points for fibre + points for fruit, vegetables and nuts (not allowed to score for protein)

A **food** is classified as 'less healthy' where it scores **4 points or more**.

A **drink** is classified as 'less healthy' where it scores **1 point or more**.

APPENDIX C

Healthy Foods defined by Nutritional Food Group

Food group	Type of food	Evidence
Fruit and vegetables	<p>Fruit (Fresh, tinned in fruit juice only not in syrup, frozen, dried, 100% juice)</p> <p><u>Excludes:</u> dried fruit coated in confectionary, yogurt, etc.; fruit preserved in alcohol; fruit and veg mixed with other food groups</p> <p><u>Consider:</u> tinned fruit in syrup</p>	<ul style="list-style-type: none"> • DH/FSA: Recommend that at least 5 portions of fruit and veg should be eaten a day. • FSA: Fruit and vegetables should make up a third of a diet. • Research shows that regular consumption reduces the risk of heart disease and some cancers (British Dietetic Association, 2006).
	<p>Vegetables (fresh, frozen or tinned vegetables)</p> <p>Excludes battered or coated vegetables</p> <p><u>Consider:</u> canned vegetables with added salt/sugar</p>	<ul style="list-style-type: none"> • DH/FSA: Recommend that at least 5 portions of fruit and veg should be eaten a day. • FSA: Fruit and vegetables should make up a third of a diet. • Research shows that regular consumption reduces the risk of heart disease and some cancers (British Dietetic Association, 2006).
Starchy foods	<ul style="list-style-type: none"> • Unprocessed potatoes • Bread & cereals including all grains, rice (uncooked and unprocessed) and fresh or dried pasta) <p>Excludes: breads with added butter, oil or cheese toppings</p> <p><u>Consider:</u> breakfast cereals – porridge oats vs high salt/sugar varieties</p>	<ul style="list-style-type: none"> • FSA: recommends that starchy foods should make up a third of diets. • British Dietetic Association: Wholegrain varieties have been shown to reduce the risk of heart disease, Type 2 diabetes and some cancers (British Dietetic Association, 2005).
Protein	<ul style="list-style-type: none"> • Unprocessed poultry • Eggs • Fish (plain without breadcrumbs or batter) fresh, frozen and tinned • Seafood? • Dried and tinned pulses <p><u>Consider:</u> pork, lamb and beef are all part of a healthy diet, but some are high in fat, especially saturated fat</p> <p><u>Consider:</u> some fish are tinned in brine, spring water, oil, mayonnaise</p> <p><u>Consider:</u> nuts & seeds – shelled, unshelled, salted and coated</p>	<ul style="list-style-type: none"> • Poultry is meat with the lowest fat content. • FSA: Eggs are a good source of a range of vitamins and should be included as part of a varied diet. • FSA: recommend eating 2 portions of fish a week, including one portion of oily fish.

Food group	Type of food	Evidence
Dairy products	<ul style="list-style-type: none"> • Milk and milk products (excluding ice-cream, cream products, condensed and flavoured milk) <p style="color: red; margin: 0;"><u>Consider:</u> wide range of other dairy products – cheese, yogurt, fromage frais, sour cream, cream, etc.</p> <p style="color: red; margin: 0;"><u>Consider:</u> full-fat; skimmed, semi-skimmed & low-fat products high in sugar</p>	<ul style="list-style-type: none"> • FSA: High calcium content
Drinks	<ul style="list-style-type: none"> • Water – still or sparkling • 100% fruit juice, milk 	<ul style="list-style-type: none"> • 100% juice is one of the 5-a-day.

Examples of UK VAT application to food**Examples of products where VAT is payable:**

Wholly or partly chocolate-coated biscuits
Gingerbread man decorated with chocolate (unless this amounts to no more than 2 chocolate eyes!)
Arctic Rolls
Sorbet
Chocolate bar
Nuts or fruits covered in chocolate or yogurt
Flavourings for milk shake
Potato crisps
Roasted or salted nuts without shells
Water

VAT-exempt alternatives:

Cakes
Chocolate-chip biscuits
Chocolate spread
Millionaire's shortcake
Jaffa cakes
Cream Gateaux
Mousse
Chocolate spread
Toffee apples
Milkshake
Tortilla or corn chips
Roasted or salted nuts supplied in shells, e.g. monkey nuts, pistachios

Full guidance on VAT and Food is available at: <http://customs.hmrc.gov.uk>

APPENDIX E

Examples of Evidence-Based Healthy Eating Interventions

Examples of Evidence-based Whole Population Activities : Food & Nutrition					
Target	Initiative	Resource	Target	Indicative Cost/yr	
Pre Birth/ maternity	Weight Screening & referral Breast Feeding : UNICEF Baby Friendly Initiative	Midwives, Dietitians, GP Training Co-ordinator, UNICEF resources Social Marketing	Decrease % of mothers overweight/obese at pregnancy Increase % of women breastfeeding at 6 weeks and 6 months	£60-80,000	
Early Years	Training on Food Standards for Early Years Settings Early years Food Dudes programme	Training Course/packs/monitoring Co-ordinator Programme Materials	All pre-school settings/food provision attaining standards Decrease 3 yr rolling average of 5 year olds overweight or obese from 25% to less than 10%	£2,000 Incorporated into primary programme below	
Primary	Food Dudes Behaviour change educational programme EY5 – Yr 6 Family Project – weight management programme for under 18s & families	Materials/ coordinator Weight Management team/resources	Increase % of children eating 5/day to greater than 50% Decrease % Yr 6 obese/overweight Improved BMI and self-reported knowledge/behaviour change in referred clients	£200,000 first year £160,000/yr recurrent £140,000	
Secondary	Free School Meals (within School Food Standards) for those eligible (S)Stage 11-16 Healthy Catering Award for retailers/Workplace Weight Watchers by Referral	Catering, Social Security ESC Guidance, training, EHO, Dietitian Expanded existing Programme	70% uptake for those eligible; Increase % Yr 10 eating 5/day 50% of eligible outlets achieving award as a result of healthier recipes/labelling/marketing 50% of referrals achieving 5% body weight loss after 12 week	£600,000 £10,000 £20,000	
Adult	Social marketing campaign/fiscal strategy (tax + subsidy)	Co-ordinator, materials Treasury, retailers	Increase adults reporting eating 5 a day from 34% to more than 50%	TBC	