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M E M O R A N D U M

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**To:** Christine Cochran  
**From:** Chris Salisbury  
**Date:** September 23, 2021  
**Re:** Baker/Sub-baker Assessments and Imports/Foreign Operations

The following memorandum addresses two matters relating to the Wheat Flour Foods Promotion, Research, and Information Order (the "Order"): (1) baker and sub-baker assessments and (2) the application of the Order to imported products and domestic bakers with overseas facilities. The terms in this memo reflect the terms used in the Order and may differ from common industry use.

**I. Baker/Sub-Baker Assessments**

**A. Overview**

§ 1240.20 of the Order sets forth definitions of "baker" and "sub-baker" as follows:

*"Baker means a person who utilizes wheat flour to produce grain foods to market, or who purchases from or otherwise causes a sub-baker to produce grain foods for such person to market, and who is not exempt from assessment under the provisions of this Part."*

*"Sub-baker means a person who utilizes wheat flour to produce grain foods that will be sold to, or otherwise produced for, a baker."*

§ 1240.54(c) of the Order sets forth the bakers' assessment obligations:

*"Each baker shall pay an assessment directly to the Board at a rate of 13.6 cents per CWT of wheat flour purchased from a miller for the purpose of producing grain foods and 8.2 cents per CWT of grain foods purchased from a sub-baker by the baker for the baker to market."*

Therefore, under the Order, bakers pay assessments on (1) wheat flour purchased directly from millers which the bakers will use to make finished bread-basket products to market, and (2) finished bread-basket products which the baker purchases from a sub-baker which the baker markets.

The sub-baker is not an assessed entity under the Order. Only the baker – the company that buys wheat flour to bake products to market or buys co-packed finished products to market – pays the assessment.

**B. Explanation of Rates of Assessment**

The 13.6 cents per CWT rate on wheat flour and the 8.2 per CWT rate on finished products are identical assessments on wheat flour. The 8.2 cents per CWT of finished product is determined by multiplying the baker's 13.6 per hundredweight assessment on wheat flour by the average percentage of wheat flour comprising the weight of finished bread-basket products, which is 60%. 60% of 13.6 equals 8.2 (rounded). This 8.2 cents per CWT assessment is applied to the weight of the finished bread-basket products purchased by a baker from a sub-baker, ensuring equal assessment owed by the baker on both (i) the raw wheat flour purchased from a miller and (ii) the baked wheat flour contained in finished bread-basket products produced by and purchased from a sub-baker.

**C. De Minimis Exemption**

Only the largest bakers will be subject to assessments under the Order. Any baker who buys less than 750,000 CWT total of wheat flour annually for the purpose of producing bread-basket products is exempt from assessment. The 750,000 CWT total of wheat flour is calculated by adding (i) the CWT of wheat flour purchased directly from millers and (ii) sixty percent (60%) of the CWT of finished bread-basket products purchased from sub-bakers for the bakers to market. The 60% multiplier serves to function the same way for the de minimis calculation as it does in determining the assessment rate on finished bread-basket products purchased from sub-bakers – roughly 60% of the average weight of finished breadbasket products is wheat flour. We understand the number of bakers over the de minimis level and therefore subject to assessment to be roughly 20 total companies.

**D. Examples**

1. A large bakery which purchases over 750,000 CWT total of wheat flour buys wheat flour from millers to bake bread-basket products which it markets. It pays 13.6 cents per CWT of the wheat flour it buys from the miller for products it bakes and markets.
2. A large grocery chain which purchases over 750,000 CWT total of wheat flour both buys flour from millers to bake (through bakeries it owns) its own bread-basket products and markets them, and it also buys finished bread-basket products from sub-bakers and markets them. The grocery store pays an assessment of 13.6 cents per CWT of wheat flour it buys from the miller for products it bakes and markets, and it also pays an assessment of 8.2 cents per CWT of the finished bread-basket products it buys from the sub-baker to market.

**II. Application of the Order to Imported Products and Domestic Bakers with Overseas Facilities**

**A. Imported Products**

Imported bread-basket products are not assessed under the Order.

**B. Domestic Bakers with Overseas Facilities**

Relatedly, for domestic companies that use sub-bakers in other countries, such companies would not pay assessments on those purchases of finished bread-basket products from the sub-baker to be marketed in the United States.