

**RULINGS > PRODUCT**

# **Silver Fern Farms Limited**

Issued: 11 August 2022

**BR Prd 22/10**

The Arrangement is the supply to Silver Fern Farms Limited of units representing the removal of greenhouse gas from the atmosphere by owners of land containing permanent mapped and identified woody vegetation, where that vegetation is not already registered under the New Zealand Emissions Trading Scheme.

**START DATE – END DATE**

11/08/2022 – 10/08/2025

(THIS TITLE PAGE DOES NOT FORM PART OF THE RULING.)

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## Product Ruling – BR Prd 22/10

This is a product ruling made under s 91F of the Tax Administration Act 1994.

### Name of person who applied for the Ruling

This Ruling has been applied for by Silver Fern Farms Limited.

### Taxation Laws

All legislative references are to the Goods and Services Tax Act 1985 unless otherwise stated.

This Ruling applies in respect of s 11A(1)(w).

### The Arrangement to which this Ruling applies

The Arrangement is the supply to Silver Fern Farms Limited of units representing the removal of greenhouse gas from the atmosphere by owners of land containing permanent mapped and identified woody vegetation, where that vegetation is not already registered under the New Zealand Emissions Trading Scheme.

Further details of the Arrangement are set out in the paragraphs below.

### Background

- 1) Silver Fern Farms is a processor, marketer and exporter of premium quality lamb, beef and venison. Silver Fern Farms is 50% owned by Silver Fern Farms Co-Operative Limited, a co-operative company representing the interests of its members, and 50% owned by Shanghai Maling (Hong Kong) Limited.

### Carbon reduction programme

- 2) Silver Fern Farms has entered into an agreement with Toitū Envirocare (Toitū) dated 30 June 2020 (the Toitū Agreement) to achieve “Toitū carbonzero Certification” in accordance with PAS 2050:2011 Specification for the assessment of the life cycle greenhouse gas emissions of goods and services (British Standard) for a cradle to grave assessment of emissions in relation to “100% Grass Feed Beef for Export to the USA”.

- 3) Toitū is a wholly-owned subsidiary of Manaaki Whenua – Landcare Research, a Government-owned Crown Research Institute. Toitū Envirocare’s offerings currently serve over 400 clients worldwide. Toitū is a member of the International Emissions Trading Association and has been accredited by the International Carbon Reduction and Offset Alliance. Both organisations require compliance with international standards and best practice. Toitū also verifies compliance with the following internationally recognised carbon credit standards: Gold Standard, Fairtrade Gold Standard, Clean Development Mechanism and Permanent Forest Sinks Initiative.
- 4) The “Toitū carbonzero Certification” accurately measures an entity’s greenhouse gas emissions, and puts in place strategies to manage, reduce and offset impacts. Compliance with the programme is independently verified annually to maintain certification.
- 5) Toitū issued a certificate, valid until 30 April 2023, confirming that Silver Fern Farms’ “100% Grass Feed Beef for Export to the USA” has met the requirements to achieve the Toitū carbonzero Certification. In relation to compensating for annual emissions, the certificate states:

Ongoing compensation of emissions will be performed using a rolling 3 month forecast and actual sales cycle. Compensation is achieved by using non-credited removals[FN3] from farm suppliers, to reduce the net emissions balance to 0.

The first compensation period is from 1st January 2022 to 31st March 2022, and will be repeated hereafter.

[FN3 - Measured and verified removals within the reporting organisations measurement boundary that are not registered as a carbon credit. The non-credited removals used are also accounted within the national inventory of the host country, New Zealand.]

- 6) To achieve these non-credited removals, Silver Fern Farms will enter into agreements with its farmers (the Suppliers) for the supply of units representing the removal of carbon dioxide from the atmosphere by way of sequestration through permanent vegetation (the Services Agreement).

## The Services Agreements

- 7) Under the Services Agreement, the Suppliers agree to provide, and Silver Fern Farms agrees to buy, the “Services”. Clause 11 of Appendix 1 of the Services Agreement defines the “Services” as follows:

### 11. Services Definition

- 11.1 The Service You will provide Us [Silver Fern Farms] is the supply of carbon Removals, namely, the supply of units representing the removal of carbon dioxide from the atmosphere where one unit = one tonne of carbon dioxide that would otherwise have been emitted into the atmosphere. Your end to end Service includes:
- 11.2 Cooperating in the identification, measurement, and classification of Vegetation on Your Property;
- 11.3 Providing information and cooperation to support this Service including:
- (a) making available the legal titles that make up the Property that may be used for this Service;
  - (b) providing information relating to any ETS [New Zealand Emissions Trading Scheme] registered forest and the Vegetation on the Property that may be used for this Service;
  - (c) permitting the mapping of the Service through processing by Our suppliers, for example, remote satellite mapping of the Property based on the legal titles You provide to Us;
  - (d) permitting Our suppliers and or authorised auditors to enter Your Property upon reasonable notice when it is necessary for them to measure, audit and verify that the Removals on Your Property do physically exist and its value aligns with how We have classified it; and
  - (e) checking whether Vegetation mapped does physically exist and aligns with how We have classified it, including accessing satellite maps of the Property to verify the Vegetation providing the Service annually.

together (the "Service").

- 8) Clause 1.1 of the Services Agreement defines "Removals" as follows:

**"Removals"** means up to 80% of Vegetation occurring on Your Property that may be used by You upon request by Us to provide a Service to reduce the net greenhouse gas (GHG) emissions from the lifecycle of a certified net carbon zero meat product provided or supplied to Us.

- 9) Clause 1.1 of the Services Agreement defines "Vegetation" as follows:

**Vegetation:** mapped and identified woody vegetation occurring on your Property that is:

- (a) permanent vegetation;

- (b) made up of woody species;
  - (c) an average of at least 15 metres in width;
  - (d) at least 0.25 hectares in area;
  - (e) not registered in the ETS;
  - (f) not registered as vegetation on any voluntary carbon market; and
  - (g) not claimed as removals within any other product lifecycle.
- 10) Clause 1.1 of the Services Agreement defines “Permanent” as “the Vegetation will never be cut down or removed”.
- 11) The Services Agreement provides that the Supplier will be paid at a rate of \$10 per tonne of carbon dioxide equivalent (CO<sub>2</sub>e) or as otherwise expressly agreed by the parties in writing.
- 12) Under cl 3.1 of the Services Agreement, the Supplier agrees to sell and provide the Services to Silver Fern Farms on an exclusive basis. The Supplier also warrants that they will not apply for any other recognition of the Removals and that the Removals will not be traded, sold, registered or otherwise in the New Zealand Emissions Trading Scheme or any other carbon market (cl 4.6).
- 13) The finalised and executed Services Agreements will not be materially different to the draft document emailed to Inland Revenue’s Tax Counsel Office on 10 December 2021.
- 14) Silver Fern Farms have engaged Lynker Analytics Limited to map the Suppliers’ properties and identify the area of each type of vegetation. It has also engaged Carbon Forest Services Limited to validate the mapping information as correct and calculate the amount of carbon sequestered in accordance with the Field Measurement Approach. This data is then verified by Toitū under the Toitū Agreement in accordance with the standards required by JASANZ ISO 14065 Greenhouse gases – Requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition.

## How the Taxation Law applies to the Arrangement

The Taxation Law applies to the Arrangement as follows:

- (a) The Services that the Suppliers provide to Silver Fern Farms under each Services Agreement are zero-rated supplies for GST purposes under s11A(1)(w).

## The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 11 August 2022 and ending on 10 August 2025.

This Ruling is signed by me on the 11<sup>th</sup> day of August 2022.

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**James McKeown**

Tax Counsel Lead, Tax Counsel Office

## About this document

Product Rulings are issued by the Tax Counsel Office and Customer and Compliance Services. Product Rulings set out the Commissioner's view on how tax laws apply to a particular "product" – which is an arrangement that a specified taxpayer is likely to enter into with a number of people on identical terms. Taxpayers who enter into the arrangement described in a Product Ruling may apply the ruling but are not obliged to do so. Product Rulings are binding on the Commissioner. This means that if you are entitled to apply a Product Ruling and you have calculated your tax liability in accordance with the ruling, the Commissioner must accept that assessment. A Product Ruling applies only to the taxation laws and arrangement set out in the ruling, and only for the period specified in the ruling. It is important to note that a general similarity to an arrangement covered by a Product Ruling will not necessarily lead to the same tax result.