

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
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September 27, 1983

Mr. [K]  
Tax Director  
--- Road  
---, CA XXXXX

S- -- XX XXXXXX

Dear Mr. [K]:

This is in response to your letter of July 29, 1983. You request our opinion as to the correct application of tax to the sale of your product, "Cambridge Diet and Nutrition Bar."

You have enclosed for our review a sample of the product's wrapper. This wrapper describes the product as "a delicious addition to the Cambridge Weight-Loss Program" and a "carefully balanced nutritional supplement for the Cambridge Nutrition Program." The product is carob coated, peanut flavored, and is sold in bar form. Each 41 gram bar provides the user with 150 calories, 11 grams protein, 17 grams carbohydrates, and 4 grams of fat. The user is advised to drink a glass of water with the "diet bar." We note that this product has two patents (U.S. Patents No. X,XXX,265 and No. X,XXX,601), both of which are for inventions concerning dietary supplements and dietary methods for employing said supplements for the treatment of obesity.

In your letter, you point out that while the "Cambridge Diet and Nutrition Bar" is part of the Cambridge Weight-Loss Program and can be used in place of one "Cambridge Diet" meal, the diet bar can also be used as a nutritional supplement separate and apart from the Weight-Loss Program.

In our March 17, 1983 letter to you, we stated that it is our opinion tax applies to the sale or use of the "Cambridge Diet" meal, because it is a preparation in powdered form which is sold as a dietary supplement.

Section 6359 provides that there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption in this state of "food products" for human consumption. This section excludes from the term "food products," however,

“medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form. Since the Cambridge Diet and Nutrition bare is not sold in any of these specified forms, it is outside the exclusion from the exemption from tax under Section 6359 for “food products.” Therefore, it is our opinion that tax does not apply to the sale or use of this product.

If you have any further questions, please write this office.

Very truly yours,

Charles J. GrazianoJoseph Manarolla  
Tax Counsel

CJG:ba