



## STATE BOARD OF EQUALIZATION

December 21, 1959

Mr. --- -, ---  
Attorney at Law  
---, ---, --- & ---  
Suite ----, -- ---- and  
Savings Building  
--- --- X, ---

Re: --- --- of --- ---, Inc.  
--- ----

Dear Mr. ---:

We acknowledge your letter of December 9, enclosing a copy of a letter from the --- (A) ---, giving a list of forms of animal life, the products of which, according to the letter, "may constitute food for human consumption. Your letter requests an opinion exempting the animals on this list from sales and use taxes, as well as the feed for such animals.

The sections of the law to which you refer exempt the sale of any form of animal life of a kind the products of which ordinarily constitute food for human consumption, as well as feed for such forms of animal life.

The statement in the --- (A)'s --- letter that the listed forms may constitute food for human consumption does not, in our opinion, constitute a statement that these forms ordinarily constitute food for human consumption within the meaning of the statute. As most of the items listed seem far removed from the kind of animal life that would, in this country at least, be considered ordinarily used as food for human consumption, we are extremely doubtful that any of the forms listed qualify for the exemption. Of course, the form designated simply as "birds" no doubt contains many forms that would qualify for the exemption, such as ordinary chickens, ducks, pheasants, geese, etc.

We think a proper test is whether the animals or birds in question constitute kinds which are, in fact, used as food for human consumption in the area where they happen to be located, even though they might be actually used there for exhibition purposes. We do not believe that animals are necessarily of the kind exempted by the statute, even though in some areas of the world certain groups of people might regard them as food animals.

Accordingly, we are not in a position to rule that the forms of animal life listed in the --- (A)'s --- letter may be regarded as in the exempt category, excepting, of course, birds of the kind we have previously mentioned and probably also turtles and other reptiles of a kind commonly used for food in this country.

Very truly yours,

E. H. Stetson  
Tax Counsel

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