



STATE BOARD OF EQUALIZATION

(916) 445-2488

August 8, 1977

[H]

Distributor, Naturslim
XXXX --- ---, --- XXX
--- ---, CA XXXXX

S- -- XX XXXXXX

Dear Mrs. [H]:

This is in response to your letter of July 5, 1977 to our West Los Angeles office which has been referred to the undersigned for reply. Your inquiry concerned the status of the product you distribute - NATURSLIM – under the California Sales and Use Tax Law.

According to the labels and promotional materials you enclosed with your letter, NATURSLIM is “an instant protein powder with B-complex.” It is further described as a “nutritional aid to healthful weight reduction.” The label goes on to state:

“Dieters wishing to reduce their caloric and/or carbohydrate intake to control body weight will find Naturslim an excellent method of maintaining a higher level of protein than the diet may provide. As a food supplement, Naturslim supplies protein for food energy...Naturslim’s pleasant flavor, high protein concentration and low fat and carbohydrate content makes it the perfect supplement for enhancing the nutritional quality and value of foods.” (Emphasis added).

It also appears as part of the Naturslim program, you sell Vitamin B-6 tablets with directions as follows:

“Take 1 to 3 tablets daily with meals as a dietary supplement...” (Emphasis added).

You state that you feel Naturslim meets the requirements of the last two paragraphs of Regulation 1602(5) and thus tax should not apply to the retail sales of your product.

Regulation 1602(5) provides in part that:

“‘Food products’ do not include any products for human consumption in liquid, powdered, granular, tablet, capsule, lozenge, or pill form (A) which is described on its package or label as a food supplement, food adjunct, dietary supplement, or dietary adjunct, and to any such product (B) which is prescribed or designed to remedy specific dietary deficiencies or to increase or decrease generally one or more of the following areas of human nutrition:

1. Vitamins
2. Proteins
3. Minerals
4. Caloric Intake.”

The last two paragraphs of Regulation 1602(5), to which you refer, provide:

“Tax, however, does not apply to any such products which either are exempted by Section 6369, respecting prescription medicines, or are complete dietary foods providing the user in the recommended daily dosage with substantial amounts of vitamins, proteins, minerals and foods providing adequate caloric intake....”

Your product clearly fits within the first part of Regulation 1602(5) rather than the latter. It is labeled variously as an “aid to ...weight reduction,” a “food supplement” and a “perfect supplement for enhancing the nutritional quality and value of foods.” These facts place your product within the confines of Regulation 1602(5)(A) and (B) as a “product...in powdered...form (A) which is described as a “food supplement”...(and) (B) which is... designed to... decrease caloric intake.” In addition, the inclusion, by way of a separate package of the vitamin B-6 tablets places that portion of the product under Regulation 1602(5)(B) as a product designed to increase vitamin intake.

As a consequence, Naturslim does not qualify as a “food product” under Regulation 1602, thus, the retail sales of this product are subject to sales tax reimbursement.

If you have any further questions about this matter, please feel free to contact me.

Very truly yours,

Mary C. Armstrong
Legal Counsel

MCA:jw