



STATE BOARD OF EQUALIZATION

August 24, 1965

Gentlemen:

This is to confirm our telephone conversation of August 18, 1965 concerning the taxability of your sales of liquid nitrogen to truckers for use as a coolant of food products being shipped to out-of-state points.

As you know, ice and dry ice used in shipping or transporting food products for human consumption between points in this state and points outside this state are exempt from the sales and use taxes. This exemption, contained in Section 6359.5 of the Sales and Use Tax Law, is specific in its wording and refers directly to "ice" and "dry ice". In our opinion, liquid nitrogen cannot be classified as ice or dry ice for the purposes of this exemption.

Therefore, a sale in this state of liquid nitrogen to a person who will use it in packing and shipping or transporting food products for human consumption outside this state is not exempted from taxation by Section 6359.5.

Very truly yours,

Phillip R. Dougherty
Assistant Counsel

PRD:ls [lb]

3/30/89

1/1/86.

*Section 6359.5 was repealed effective 7/1/80. The exemption is now in Section 6359.7, effective
-DJH*