



STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

450 N STREET, SACRAMENTO, CALIFORNIA  
 (P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
 (916)920-6563

WILLIAM M. BENNETT  
 First District, Kentfield

CONWAY H. COLLIS  
 Second District, Los Angeles

ERNEST J. DRONENBURG, JR.  
 Third District, San Diego

RICHARD NEVINS  
 Fourth District, Pasadena

KENNETH CORY  
 Controller, Sacramento

DOUGLAS D. BELL  
 Executive Director

October 16, 1985

REDACTED TEXT

Dear REDACTED TEXT,

This is in response to your letter of July 9, 1985. We understand that REDACTED TEXT is a vending machine operator which enters into "subsidy" contracts with its customers whereby various beverages are sold at reduced prices through vending machines placed on the customers' premises.

The products sold, include: canned sodas; coffee; tea; chocolate; Calistoga water; Hansen sodas; orange juice, and; milk. Pursuant to the "subsidy" contracts, the customers pay a "subsidy price" markup for each item sold in addition to the amounts paid through the machines. While the "subsidy price" amount varies depending on the type of beverages sold (e.g., milk \$.35, coffee \$.12), the specified markup is due based upon each sale of an item. REDACTED TEXT is currently reporting tax based only on receipts from the vending machines. You asked whether tax is also due based upon all or part of the "subsidy price" receipts.

Generally speaking, retail sales of tangible personal property in California are subject to tax measured by gross receipts (Rev. & Tax. Code §§ 6006, 6012, 6051). "Gross receipts" is defined to mean the total amount of the sale (§6012). In Szabo Food Service Inc. v. State Board of Equalization, 46 Cal. App. 3d 268, the court indicated that, if subsidies can be traced to particular sales, such subsidies are includible in the taxable measure.

Applying the foregoing rules to the facts in this matter leads us to conclude that the "subsidy price" charged with respect to each item sold through REDACTED TEXT vending machines is traceable to a particular sale. It follows, under the guidelines referred to above, all "subsidy price" receipts are part of the taxable measure. We note for your information that, although some of the vended items are classifiable as "food products" under the code and our regulation, their sales are not exempt since such sales are made through vending machines (see §6359; Reg. 1602, copy enclosed).

Sincerely,

E. Leslie Sorensen, Jr.  
 Tax Counsel