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**STATE BOARD OF EQUALIZATION**

September 19, 1969

[X]

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Dear Mr. [X]:

In regard to your letter of September 10, 1969, I would agree that your product is not ordinarily dispensed at bars or soda fountains. However, the phrase "such as are ordinarily dispensed at bars and soda fountains or in connection therewith" in section 6359 qualifies only the word "beverages," and not the words "soft drinks." The entire paragraph reads:

"Food products' do not include spirituous, malt or vinous liquors, soft drinks, sodas, or beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith, medicines, tonics, and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts."

There is no comma after "beverages" as you included in your letter.

The term "soft drinks" is a broad one, including all beverages which are nonalcoholic. Though Gatorade is not a beverage ordinarily dispensed at bars or soda fountains, it is a "soft drink." As it does not contain sufficient fruit juice to be exempt, sales are taxable until January 1, 1970.

Beginning January 1, 1970, pursuant to a change in the law passed by this session of the Legislature (AB 444), all non-carbonated soft drinks will be exempt.

Very truly yours,

Lawrence A. Augusta  
Assistant Counsel

LAA:ph

bc: Pasadena – Subdistrict Administrator (BM)  
Oakland – District Administrator  
Mr. H. A. Dickson