



STATE BOARD OF EQUALIZATION

(916) 324-5589

January 5, 1990

Ms. J--- M. C---
Training Coordinator
S--- T--- C---
XXXXX --- ---
---, CA XXXXX

S- -- XX-XXXXXX

Dear Ms. C---:

This is in response to your letter of November 14, 1989. You have requested our opinion regarding the correct application of tax to the following liqueur-filled candy.

Splendid Chocolates – Cointreau, Liqueurs in Dark Chocolate

Very Special Chocolats, Inc. – Chocolate Cocktails

Both of the products you submitted contain alcohol. Each is labeled with the proviso that the sale of the product to a person under the legal age for purchasing alcoholic beverages is unlawful.

Generally, the sales of “candy and confectionary” for human consumption are sales of exempt food products which are exempt from tax pursuant to Revenue and Taxation Code section 6359 and Sales and Use Tax Regulation 1602. However, Regulation 1602 also provides that the term “food products” does not include “spirituous, malt or vinous liquors.”

We are of the opinion that neither of these liqueur products qualify as exempt food products under Sales and Use Tax Regulation 1620 because they both contain sufficient amounts of alcohol to be considered an alcoholic beverage. As such, tax will apply to your sale of these products.

If you have further questions concerning this matter, please write this office again.

Very truly yours,

Mary C. Armstrong
Senior Tax Counsel

MCA:wak