



STATE BOARD OF EQUALIZATION

June 22, 1953

[X]

Attention: [X]
Executive Secretary

Gentlemen:

In your letter of June 9 addressed to Mr. H. A. Dickson, Principal Auditor, you inquire whether "Portland Punch" and malt syrup are exempt food products or taxable items under Section 6359 of the California Sales and Use Tax Law and the regulation relating thereto, Sales and Use Tax Ruling 52 (copy enclosed).

We have examined the label which you attached relating to "Portland Punch". From what facts we have available, it would appear that "Portland Punch" is essentially a sweetened water flavored by fruit juice and therefore taxable under Ruling 52. In other words the base itself does not appear to be an exempt fruit product within the meaning of Sales Tax General Bulletin 52-15 (copy enclosed). Bulletin 52-15 was adopted in an effort to clarify the position of the staff with respect to the application of the tax under Ruling 52 to bases, powders, and concentrates. If you feel that this base is primarily a fruit juice rather than primarily a sweetened water with a small content of fruit juice added, we would be pleased to hear from you further concerning the contents of this product.

As to the malt syrup, you state that this product is often sold by retailers as a substitute for molasses. You will observe that under the second paragraph of Section A of Ruling 52, food products include bakery products and also syrups for use as an ingredient of, or upon, food products as defined in the ruling. Assuming that the malt syrup is sold for one of the purposes mentioned above, it would appear to be in the exempt category, and the provisions of the third paragraph of Section A, referring to malt and malt extracts as taxable items, would apparently not apply.

Yours very truly,

E. H. Stetson
Tax Counsel

WWM:ja

cc: San Francisco - Auditing