

**STATE BOARD OF EQUALIZATION**

916-327-3400

December 1, 1989

[X]

Dear [X]:

I am writing in response to your October 25, 1989 letter requesting legal advice as to whether a product called "Lactaid" is exempt from sales tax. Generally, sales of food products for human consumption are exempt from taxation. Revenue and Taxation Code Section 6359 (enclosed) provides at subsection (c) that "for purposes of this section 'food products' do not include medicines and preparations in liquid, powder, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts. "

According to the manufacturer's brochure, which you enclosed, "Lactaid is a natural yeast-derived enzyme which you add to milk to convert its lactose into easily digestible sugars." Lactaid comes in liquid and tablet form. Lactaid is recommended for people who "have trouble digesting the lactose in milk." It is clear from this description that Lactaid is sold as a dietary supplement or adjunct. Thus, Lactaid does not qualify as a tax exempt food product and sales of Lactaid are subject to sales tax. Please note, however, that Lactaid brand ready-to-drink milk and cheeses qualify as food products and are exempt from sales tax.

Please feel free to write again if you have further questions. I am enclosing a copy of the 1989 Sales and Use Tax Law as you requested.

Sincerely,

Stella Levy  
Tax CounselSL:cl  
Enclosure