

**STATE BOARD OF EQUALIZATION**

(916) 445-8485

January 4, 1989

Ms. [L]
XXXX – XX ---.
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Dear Mrs. [L]:

This is in response to your letter to the Board's Legal Unit. You have requested an opinion concerning whether the sale of ISOMIL is taxable.

It is our understanding that ISOMIL is a powdered, milk-free baby food. ISOMIL can be used to supplement breast feeding or as the only source of nutrients if the infant is unable to ingest milk or dairy products.

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers for all retail sales of tangible personal property in this state. (Revenue and Taxation Code § 6051). The retailer, in turn, charges the consumer sales tax reimbursement. Revenue and Taxation Code Section 6359 and Sales and Use Tax Regulation 1602(a)(1) provide that tax does not apply to sales of food products for human consumption, with certain exceptions. Regulation 1602(a)(1) provides that "food products" include sugar and sugar products and syrups (for use as an ingredient of, or upon, food products as defined herein).

It is our opinion that ISOMIL is an exempt food product and its sale is not subject to tax. We note, ISOMIL's ingredients include corn syrup solids and sucrose. Additionally, we note that we have considered other similar baby food products to be exempt (see Business Taxes Law Guide Annotation 245.0040).

I have enclosed Regulation 1602 (Food Products) for your information. If you have any further questions, please feel free to write again.

Very truly yours,

E. L. Sorensen, Jr.
Senior Tax Counsel

ELS:ss
Enclosure