

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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June 5, 1978

Mr. [R]
Private Label Coordinator
[M]
Post Office Box XXXX
--- ---, California XXXXX

S- -- XX XXXXXX

Dear Mr. [R]:

This is in reply to your letter of April 26, 1978 concerning whether or not tax applies to the following items:

- (1) --- ---'s Lecithin Granules -
Sold in a one pound bag
- (2) --- ---'s Pure Natural Bee Pollen -
Sold in a four ounce bag

You state that you make no claim regarding either product. The labels on these two products state only the name of the item and the weight and in the case of the lecithin granules, the nutritional value of one tablespoon and the calorie count per gram.

Sales and Use Tax Regulation 1602 (copy enclosed) provides that:

“Food Products’ do not include any product for human consumption in liquid, powered, granular, tablet, capsule, lozenge, or pill form (A) which is described on its package or label as a food supplement, food adjunct, dietary supplement, or dietary adjunct, and to any such product (B) which is prescribed or designed to remedy specific dietary deficiencies or to increase or decrease generally one or more of the following areas of human nutrition:

1. Vitamins
2. Proteins
3. Minerals
4. Caloric Intake

In determining whether a product falls within Category (B), it is important whether the manufacturer has specially mixed or compounded ingredients for the purpose of providing a high nutritional source....”

We have previously concluded that Lecithin Granules are not considered “food products” as that term is defined in Regulation 1602, but that they are a dietary or food supplement designed to remedy specific dietary deficiencies consisting of ingredients which have been specially mixed or compounded for the purpose of providing a high nutritional source. As such, tax will apply to the sale of Lecithin Granules.

We have previously concluded that “Bee Pollen” was not a “food product” when the label on the product indicated the product was for medicinal purposes. In the case of the “Bee Pollen” sold by your company there are no claims made as to this product’s uses, rather it is simply a food sold for human consumption. As such, we would consider “--- ---’s Pure Natural Bee Pollen” to be a “food product” and exempt from tax pursuant to Regulation 1602.

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

Very truly yours,

Mary C. Armstrong
Legal Counsel

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