

550.0103

## Memorandum

To: Mr. Glenn A. Bystrom, Deputy Director  
Sales and Use Tax Department (MIC:43)

Date: February 25, 1994

From: Gary J. Jugum  
Assistant Chief Counsel

Subject: Regulation 1603

There has been some uncertainty as to the interpretation to be made of that part of Regulation 1603(f), which provides that "tax applies to sales of sandwiches ... and other foods sold in a form for consumption ... from trays ... or other tableware provided by the retailer." [Emphasis added.]

The problem arises when multiple servings of food are delivered on a returnable tray. Analytically, there are four situations which might arise:

(1) The food is on a large returnable tray and is in a single bulk quantity. For example, a wedding cake may be delivered on a tray.

(2) The food is on a large returnable tray, but the food has been prepared to be served in individual portions, as, for example, a wedding cake sliced into individual portions.

(3) The food is on a large returnable tray but has been prepared to be eaten as individual servings as, for example, a tray of sandwiches.

(4) Each individual serving is in its own returnable container and is intended to be eaten from the container.

We discussed this matter on February 23, 1994. We are in agreement that (1), (2) and (3) are nontaxable but that (4) is a taxable transaction.

GJJ:sr

cc: Mr. William Dunn (MIC:49)  
Mr. Dennis Fox (MIC:40)  
Mr. Gordon Adelman (MIC:82)  
Mr. David Levine (MIC:82)  
Mr. John Waid (MIC:82)  
Ms. Joan Armenta Roberts (MIC:40) – Please annotate this memo