



550.0120

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

August 2, 1963

REDACTED TEXT

Dear Mr. REDACTED TEXT,

This is in reply to your undated letter received here August 1, 1963.

Under the Sales and Use Tax Law, sales tax applies to the sale of food which is “furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer.” If such facilities are furnished by the seller and utilized by the customer, the tax applies regardless of whether the food is contained in a cone, a dish, or any other facility.

The tax does not apply, however, if the food is consumed without the use of any of these facilities. Ice cream cones are ordinarily consumed off the seller’s premises without the use of any of the named facilities and so, generally, the tax does not apply to the sale of ice cream cones. If, however, they are, in fact, consumed on the seller’s premises, the customer utilizing his counter, chairs, tables, or other facilities, the tax applies.

We are enclosing a copy of ruling 52, Food Products, and call your attention specifically to part (d).

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb
Enclosure

cc: REDACTED TEXT
Burbank, California

Santa Ana – Subdistrict Administer

[Handwritten notation in margin with “Ice cream cones” underlined, “Could now be taxable within Sec. 6359(d)(6). 9/9/87 DJH”]