

550.0527

**Memorandum**

To: Ms. M. C. Armstrong

Date: February 26, 1980

From: Donald J. Hennessy

Subject: 1979 Amendment to Section 6363.6

As I discussed with you briefly on February 22, 1980, Walt Shaffer, of the San Diego district, points out an unusual situation arising under the exemption for meals and food products sold to residents or patients under the new amendment. Some of the residences exclusively for persons 62 years of age or older not only supply board and room but have a snack bar where the residents may purchase food products and also nonfood products such as carbonated beverages. Mr. Shaffer suggested, and I agreed, that sales of food products by such snack bars would be within the exemption, but the sales of carbonated beverages or other nonfood products would be subject to tax. Mr. Shaffer suggested that such residences might be better off to have carbonated beverages sold through a vending machine with the machine operator subject to the tax.

In our discussion, you raised the point that, if a carbonated beverage or beer were served as part of a meal, it may well be within the exemption although technically not a food product. I agree that this would seem to be in the spirit of the exemption and avoid a real administrative problem. If we are to go this route, it is something that well might be pointed out in your training class to avoid future problems.

DJH:po

cc: D. F. Brady  
G. J. Jugum  
San Diego – Auditing (WS)