

M e m o r a n d u m**280.0180**

To: C. F. Hattesen

September 30, 1953

From: W. W. Mangels

Subject: R--- C. C---
XXX --- Street
---, California

C-XXXXXX

You state that C---, a restaurant, has available for its patrons match booklets which advertise the restaurant. In other words, when persons have finished dining and pay their bill at the cashier's stand they may "grab" a match booklet at the counter without paying any additional sum.

Furthermore, purchasers of cigarettes at the cashier's desk are always furnished these match booklets without paying any additional charge.

You inquire concerning the application of the tax to these transactions.

It is our opinion that if a person purchases a meal and merely takes these matches from the counter without buying any cigarettes, we should regard C--- as giving the matches away for advertising purposes under Ruling 72(a).

On the other hand, since purchasers of cigarettes are always furnished with match booklets, we are of the opinion that match booklets furnished to cigarette purchasers must be regarded as sold as a premium article under the last paragraph of Ruling 72.

The net result is this. C--- may purchase all of these advertising booklets under resale certificates since, we understand, that at the time of purchase he will not know which will be resold (as a premium article) and which will be consumed by him (these merely incidentally "picked up" by meal consumers not buying cigarettes).

Thereafter, the gross receipts from match booklets sold with cigarettes will be included in the sale price of the cigarettes under the last paragraph of Ruling 72. On the other hand, C--- will have to report as self-consumed on Line 2 of his return the cost of match boxes "picked up" by non-cigarette purchasing customers.

WWM:ja