

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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March 14, 1990

Mr. D--- O---
Box XXX
XXX --- Street
---, CA XXXXX

Dear Mr. O---:

Your letter of February 1, 1990 to Mr. E. L. Sorensen of our office has been referred to me for reply. You have requested our opinion regarding the correct application of tax to alfalfa seeds for sprouting and flax and cress seeds for consumption.

Alfalfa Seeds

We have previously determined that alfalfa seeds used to make sprouts are exempt from tax. Sales and Use Tax Regulation 1588 (enclosed) provides, in relevant part, that “[t]ax does not apply to sales of seeds ... the products of which ordinarily constitute food for human consumption ...”

Flax and Cress Seeds

We are of the opinion that flax and cress seeds qualify as unusual foods which are not subject to tax unless they are labeled as a food supplement or the equivalent (Sales and Use Tax Reg. 1602(a)(5)). Tax should therefore not apply to the sale of these products.

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

Very truly yours,

Mary C. Armstrong
Senior Tax Counsel

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