



STATE BOARD OF EQUALIZATION

November 15, 1963

Attention: REDACTED TEXT

Gentlemen:

This is in reply to your letter of November 5, 1963, to our Fresno district office, requesting clarification of the recent revision to section 6363 of the Revenue and Taxation Code as it relates to sales taxes on sales of meals served to employees in School District-operated cafeterias.

Unless the employees are teachers or have supervisory teaching duties, as for example principals, vice-principals, deans, chairmen of departments, etc., we do not believe that the sales of meals to these employees are within the exemption. Although they may be "associated" in the educational process, the law is specific that the exemption applies only to meals served to "students or teachers."

Even without the rule that exemptions from taxation are strictly construed, it would be difficult to regard the words "students or teachers" as including such persons as clerical employees, business office employees, security patrol personnel, or building and grounds personnel. Teachers or students visiting from other school are, however, included within the exempt group.

Where dinners are served to mixed groups, the tax will not apply to sales to the students and teachers, including those with supervisory teaching duties. Sales to members of boards of trustees, and other "lay" persons, are, however, taxable.

Sales to employees not exempt as sales to students and teachers are, however, taxable only to the extent indicated in ruling 53(g), copy enclosed. In applying this ruling, book entries made merely for the purpose of placing monetary value on meals furnished employees as a part of compensation (to meet the requirements of various laws, union contracts, etc.) will not be considered specific charges.

The references to "five or more employees" in ruling 53(g), as applied to a school district would, in our opinion, apply to all of the employees of any one district, rather than to each separate school operation. This is because the "employer" is the district, not the individual schools.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb

Enclosure

cc: Fresno – District Administrator