



STATE BOARD OF EQUALIZATION

December 22, 1952

Your letter of August 21

Dear --- --- ---:

You inquire as to the application of the sales tax to purchases by a person engaged in the business of raising and selling tropical fish. Your question directly concerns the application of the tax to purchases of fish food, medicine, breeding fish, and equipment for heating and filtering tanks.

Section 6358 of the California Sales and Use Tax Law exempts from the sales tax gross receipts from sales of any form of animal life of a kind the products of which ordinarily constitute food for human consumption. That section also exempts sales of feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption, or are to be sold in the regular course of business. See also Sales and Use Tax Ruling 47 (copy enclosed).

Accordingly, the sales tax does not apply to sales to you of feed inasmuch as that feed is for animal life to be sold in the regular course of business. On the other hand, the sales tax does apply to your purchases of medicines and your purchases of breeding fish. The sales to you of breeding fish are taxable in view of our understanding that tropical fish are not a form of animal life of a kind which ordinarily constitute food for human consumption. Your purchases of tanks and other equipment are, of course, subject to the sales tax pursuant to Ruling 14, (copy enclosed).

If you fee that you have over-paid to this Board, we would suggest that you file a claim for refund. No special form is required and it may be in the form of a letter. It must be in writing and must state the specific grounds upon which the claim is founded. Claims must be filed within three years from the last day of the month following the close of the quarterly period for whichever payment is made.

December 22, 1952
110.0700

It facilitates investigating claims for refund if the claimant indicates the amount and periods involved.

We are sorry that we temporarily mislaid your letter.

Very truly yours,

W. W. Mangels
Assistant Counsel

WWM:ja