



STATE BOARD OF EQUALIZATION

August 9, 1965

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Gentlemen:

This is in reply to your letter of May 12 in which you inquire about the application of the Sales and Use Tax Law to the sale of feed to a horse boarding ranch which boards breeding stock owned by other persons, who are billed once a month for a flat amount. The flat boarding fee includes all the boarding services including the hay consumed by the horses.

Under these circumstances, it is our opinion that the horse boarding ranch does not clearly retail the feed to its customers. Rather, the ranch consumes the necessary amount of hay expended in providing the total service. Accordingly, it should not purchase the feed under a resale certificate or a feed exemption certificate.

Since horses are not animal life of a kind the product of which ordinarily constitute food for human consumption, the feed exemption certificate will only apply to feed purchased for breeding stock used to produce foals which are sold in the regular course of his business. In the instance in which the livery man clearly retails feed to his customers, he may also buy that feed under a resale certificate; the customers may, in turn, supply the livery man with a feed exemption certificate only if the product (foals) are sold in the regular course of business. Such customers should not use the feed exemption certificate when their breeding stock are not used to produce foals which are then sold in the regular course of business.

If you have any further questions, please do not hesitate to write to us again.

Very truly yours,

Philip R. Dougherty
Assistant Counsel

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