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**STATE BOARD OF EQUALIZATION**

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001  
TELEPHONE (916) 445-6450

December 14, 1965

Gentlemen:

This is in regard to your letter of December 8 regarding ProSobee milk-free formula with soy isolate.

From the information which you have submitted, it is our understanding that ProSobee is a hypo-allergenic baby formula made from soybeans containing no vegetable glactogens. In our opinion it qualifies as a food product under Section 6359 of the Revenue and Taxation Code and sales tax Ruling 52.

Very truly yours,

George A. Trigueros  
Associate Tax Counsel

GAT:md [1b]



## STATE BOARD OF EQUALIZATION

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001  
TELEPHONE (916) 324-3828

March 22, 1990

Ms. [Y]  
XXXX --- ---  
--- ---, California XXXXX

Re: Baby Formulas - - Taxable or Exempt?

Dear Mrs. [Y]:

On behalf of the staff of the State Board of Equalization, I am responding to your letter of March 6, 1990 wherein you state that [K] should not be charging sales tax on infant formula. You also sent us a label from a can of Isomil formula.

Although California Revenue and Taxation Code 6051 imposes an obligation on retailers to pay sales tax on all sales of tangible personal property, Section 6359 of the same code provides an exemption for sales of food products.

Section 6359(a) states:

“There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of food products for human consumption.

Sales and Use Tax Regulation 1602(a)(1) on Food Products provides in relevant part:

“‘Food products’ include ... baby foods ....”

You have provided us with a label from a can of Isomil. In bright red letters on the front label, it says: “For milk-free feeding.” On the back label it states: “Isomil is formulated for infant feeding and may be specified by your physician for special feeding needs, as a supplement to breast milk, or for routine feeding....”

Furthermore, Sales and Use Tax Annotation 245.0040 (8/5/60) exempts as food products Similac and other infant formulas. Although Similac and the other formulas were exempted because they were milk products, the Board’s legal staff at Sales and Use Tax Annotation 245.0940 (12/14/65) also exempted as a food product, Pro-Sobee. Pro-Sobee was a milk-free formula made with soy isolate.

The ingredients on the label of Isomil that you have provided indicate that Isomil is also a milk-free, soy, infant formula. In our opinion, Isomil qualifies as a food product under Section 6359 of the Sales and Use Tax Law.

Therefore, sales of Isomil by [K] are exempt from sales tax. We will be sending a copy of this letter to the District Administrator of our Sacramento District office so that he may contact [K]. Thank you for bringing this matter to our attention.

Sincerely,

Don P. Chairez  
Tax Counsel

DPC:cl