

**M e m o r a n d u m****245.1120**

To: Mr. John Abbott  
Senior Staff Counsel (Supervisor)

Date: February 11, 1991

From: John L. Waid  
Tax Counsel

Subject: Annotation 245.1120  
Aloe Vera Gel

There is what may be a typographical error in the above annotation which alters the principle stated in the supporting letter. The annotation reads as follows:

“245.1120 Aloc Vera Gel. Aloc Vera Gel is sold primarily for use as a dietary supplement and for medicinal purposes; accordingly it does not qualify as a food product under Section 6359. 7/19/67.”

The supporting memorandum reads, in pertinent part, as follows:

“Although the brochure indicates that this product can be used for favoring [sic] foods and candy, it appears to us that it is primarily sold for medicinal purposes or for use as a dietary supplement. Accordingly it does not qualify as a food product under § 6359 and Ruling 52.”

The memo makes it clear that it is not aloe vera gel in general which is sold as a supplement and medicine but the particular product before the memo's author, GAT (George A. Trigueros). The annotation states, however, that aloe vera gel in general is sold as a food supplement or as having medicinal qualities. Our experience has been that aloe vera gel is not always so sold. The annotation as it stands, therefore, creates a misleading impression.

I believe some minor changes in the annotation are necessary to make it reflect the correct rule. First, the title should be “Aloe Vera Gel” and not “Aloc Vera Gel.” Second, by changing the word “is” to “if”, and making some grammatical changes, the annotation would be correct. I suggest that the annotation be altered to read as follows:

“245.1120 Aloe Vera Gel. Aloe Vera Gel, if sold primarily for use as a dietary supplement or for medicinal purposes, does not qualify as a food product under Section 6359. 7/19/67. (Am. 2/11/91).”

A "medicinal claim" on the product label is no longer used as a basis for differentiating a food product from a medicine. Please see Annotation 245.0724 (11/17/08). RDT. 7/2/09.