

**M e m o r a n d u m****245.1200**

To: Fresno – Dist. Admin.

Date: April 7, 1965

From: Tax Counsel (RHA)

Subject: [X]

Reference is made to your memo of March 8 regarding “[X]’s Protein Tablets”.

The ingredients of the tablets include dry milk solids, honey, soy beans, sugar, and butterscotch flavoring.

The tablets do not appear to be a confection although they contain some sugar and flavoring. We have held that Diet Wafers, advertised to eliminate hunger sensations encountered by people on reducing diets, are not exempt food products. Similarly, Protein Hydrolysates described as a class of food supplements is not an exempt food product.

The product in question is sold to cut down hunger, thereby eat less and thus lose weight. At the same time it is said to keep up nutrition. It is not a complete food but only protein supplement concentrate sold to help reduce food consumption. Therefore, it appears that the product falls within subparagraph (3) of Ruling 52, a “preparation in...tablet... form sold as a dietary supplement or adjunct...” It is our opinion that the product should not be classified as an exempt food product.

RHA:cw [lb]