



STATE BOARD OF EQUALIZATION

916-322-6083

September 27, 1976

[X]

Dear Mr. [X]:

This is in response to your letter dated August 26, 1976, in which you inquire as to the application of tax to a product that you sell. You enclosed a label for 5 gram capsules of Slippery Elm, distributed by [X] Products of [Z], Utah. The label states that this product is herbal tea capsules and is to be taken with a large glass of water.

Section 6359 of the Revenue and Taxation Code provides that "food products," which are not subject to tax, do not include preparations in capsule form sold as dietary supplements or adjuncts. Your product is in capsule form and we understand that it is sold as a dietary supplement. We must conclude, therefore, that sales of your product are subject to tax.

Very truly yours,

H. L. Cohen
Tax Counsel

HLC:js