

# Memorandum

245.1630

To : Mr. Glenn A. Bystrom  
Deputy Director  
Sales and Use Tax Department  
MIC:43

Date: May 29, 1996

From : Gary J. Jugum  
Assistant Chief Counsel

Subject: Pedialyte

This is in response to your memorandum of May 22, 1996. You have asked that we comment upon Business Taxes Law Guide Annotation 245.1265, with respect to the product "Pedialyte."

The annotation should be edited to remove all reference to the product Pedialyte. A new annotation should be prepared based on this letter to confirm the fact that tax does not apply to sales of Pedialyte. The new annotation should state merely as follows: Sales of Pedialyte are nontaxable. It should be included in the food product section, as well as the medicines section of the annotations.

Pedialyte is nontaxable because it is a medicine used to treat illness in children. This product is available from general consumer sources, and distribution is not limited to pharmacies. This product is like "Medical Oxygen," which is likewise available from sources other than pharmacies or health facilities.

Because this product is available from sources that do not ordinarily maintain a record of property dispensed consistent with the direction of a physician, we should treat the sale transaction as nontaxable without regard to such documentation. In the case of this product, application of the tax should not depend on the decision made by the consumer with regard to the vendor. Tax will not apply whether the product is purchased from a pharmacy or from a grocery store.

GJJ:sr

cc: Mr. Dennis Fox