

M e m o r a n d u m**245.1820**

To: Mr. J. S. Knight

Date: July 16, 1974

From: E. H. Stetson

Subject: Tom & Jerry, and Eggnog Batter

In answer to your memo of November 21, we advise that we have consistently noted that Tom & Jerry batter and Eggnog Batter are food products for human consumption, even though their principal purpose is, of course, as ingredients of alcoholic drinks.

The basis for our opinion is that the batter itself is made up of ingredients which are themselves food products, such as sugar, butter, spices, and the like, and is ultimately for human consumption.

You know, of course, that Ruling 52 provides in Paragraph C that if a given article is properly regarded as a "food product", the tax does not apply to its sale, even though the consumer will process or incorporate it into a product such as an alcoholic beverage which is for human consumption but which is not a "food product." An example is given of sugar sold to a housewife to be used in making candy, and grapes to be used in wine for home consumption. We believe the same principle is applicable in the case of Tom & Jerry and Eggnog batter.

EHS:ph