

**STATE BOARD OF EQUALIZATION**

August 31, 1955

S--- F---, Inc
T--- I---
California

SR -- XX XXXXXX

Attention: Mr. R--- R. K---
Controller

Gentlemen:

Your letter of April 25 addressed to our Long Beach office has been forwarded to this office for reply. You request our opinion concerning the application of tax to your "Grocer Premiums Incentive Program".

Grocers throughout the nation are given points for selling your products. They are also supplied with catalogs which list 60 items of merchandise with retail values ranging from \$2.00 to \$500.00. The grocer may acquire one of the premium items by surrendering the points he has earned at the rate of 1¢ per point.

Premium merchandise is supplied by four suppliers. In some cases the supplier will ship direct to the grocer and in other cases he will ship to your warehouse from which you will make shipment to the grocer. We assume that the grocer sends his order for premium merchandise to you.

It is our opinion that you are selling the merchandise to the grocer whether you make shipment yourself or direct a supplier to make shipment. It is our opinion that the selling price is the number of points surrendered by the grocer for the premium merchandise at the rate of 1¢ per point.

As indicated in Section A-1-(c) of Ruling 55 your delivery to an out-of-state grocer is an exempt interstate commerce transaction. Deliveries to California grocers are, however, subject to tax and you must pay this tax measured by the selling price. Since you are regarded as selling the premium merchandise, you may issue a resale certificate to your supplier. A resale certificate should be furnished to the supplier even if he makes shipment directly to the grocer. If you have paid tax on purchases, you will be entitled to a deduction for tax-paid purchases resold as set out in Ruling 71, copy enclosed.

Very truly yours,

Bill Holden
Associate Tax Counsel

BH:tj
cc: Long Beach – Auditing