



STATE BOARD OF EQUALIZATION

March 14, 1973

REDACTED TEXT

Attn: REDACTED TEXT
Bookkeeper

Gentlemen:

We are replying to your letter of February 21, 1973 concerning the application of sales tax to sales of meals and food products in the dining room and cafeteria operated by REDACTED TEXT. You have concluded that such sales are exempt from sales tax under regulation 1603(m), which restates section 6374 of the California Revenue and Taxation Code.

As we understand the facts, REDACTED TEXT operates seven apartment houses, and has four more under construction, solely for housing the low-income elderly. REDACTED TEXT is a nonprofit organization, funded by the Housing Urban Development 236 program. Included in the rent at one of the locations are five evening meals per week provided for tenants only. The cafeteria is also open during the noon lunch hour, and its facilities are available to tenants and elderly citizens of the public. Approximately six to eight employees also purchase their lunches in the cafeteria. All meals are sold at below-cost prices. Presently, sales tax is reported and paid by REDACTED TEXT on all sales of meals.

Given the above facts, we do not agree with your conclusion that REDACTED TEXT's sales of meals and food products are exempted from sales tax by section 6374. The funding required by section 6374 must be specifically for the purpose of providing meals and food products at or below cost to low-income elderly persons. To our knowledge, funding by the Housing Urban Development 236 program is not for such purposes. Our check with the Sacramento office of the Federal Housing Administration (FHA) confirmed that their insurance of loans and other programs are not specifically for the funding of meal programs. The FHA funding relates to loans for construction of housing and other facilities. Such funding does not satisfy the requirements of section 6374.

Therefore, in our opinion sales tax applies to REDACTED TEXT's sales of meals and food products in its cafeteria and dining room.

If you have further questions on this matter, feel free to write us. You may also wish to discuss the matter with the board's local office at REDACTED TEXT.

Very truly yours,

Donald J. Hennessy
Tax Counsel

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