

BEFORE THE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Petition for Redetermination  
Under the Sales and Use Tax Law of:

J.G. Boswell Company  
Account: SY AP 98-034163  
Case ID: 89002091030

MEMORANDUM OPINION

This opinion considers the merits of a petition for redetermination for the period January 1, 1995, through December 31, 1997. Petitioner protested a portion of the determination related to its ex-tax purchases of leafcutter bees. After the Appeals conference and prior to the Board hearing, the Sales and Use Tax Department conceded the leafcutter bees were exempt from tax. Both parties waived appearance at the Board hearing.

Petitioner produced agricultural crops. Petitioner purchased leafcutter bees which petitioner used to pollinate its alfalfa plants. It did not use the leafcutter bees to produce honey for harvesting, as honeybees would be used. Petitioner contended, among other things, that all types of bees, not just honeybees, are exempt from tax as forms of animal life the products of which ordinarily constitute food for human consumption.

OPINION

Subdivision (a) of Revenue and Taxation Code section 6358 exempts from sales or use tax: “(a) Any form of animal life the products of which ordinarily constitute food for human consumption.” In interpreting this exemption, the Board has adopted Title 18, California Code of Regulations, section 1587. That section provides in relevant part:

“ANIMAL LIFE, FEED, DRUGS AND MEDICINES.

(a) Animal Life. Tax does not apply to sales of any form of animal life of a kind the products of which ordinarily constitute food for human consumption (food animals), as for example, cattle, sheep, swine, baby chicks, hatching eggs, fish, and bees....”  
(Emphasis added).

As provided by the regulation, we conclude that all bees, not just honeybees, are a form of animal life of a kind the products of which ordinarily constitute food for human consumption. It is not relevant that petitioner only used the leafcutter bees for pollination, or that the leafcutter bees did not produce honey for harvesting. Accordingly, petitioner’s purchase and use of leafcutter bees are exempt from use tax. The petition should be granted.

J. G. Boswell Company  
Account: SY AP 98-034163  
Case ID: 89002091030

-2-

Adopted at Sacramento, California, on August 1, 2001.

Claude Parrish \_\_\_\_\_, Chairman

John Chiang \_\_\_\_\_, Member

Dean F. Andal \_\_\_\_\_, Member

Marcy Jo Mandel \_\_\_\_\_, Member\*

\*For Dr. Kathleen Connell, pursuant to Government Code section 7.9.