

CALIFORNIA STATE BOARD OF EQUALIZATION
APPEALS DIVISION SUMMARY FOR BOARD HEARING

In the Matter of the Petition for Redetermination)
Under the Sales and Use Tax Law of:)
YOUNG LIFE,) Account Number: SR KH 29-615534
dba Young Life Woodleaf) Case ID 270405
Petitioner) Challenge, Yuba County

Type of Business: Camping facility
Audit period 7/01/01 – 6/30/03

<u>Item</u>	<u>Disputed Amount</u>
Unreported taxable sales of meals	\$721,379
	<u>Tax</u>
As determined:	\$75,781.52
Adjustment - Appeals Division	<u>-21,060.25</u>
Proposed redetermination	\$54,721.27
Less concurred	<u>2,897.18</u>
Balance, protested	<u>\$51,824.09</u>
Proposed tax redetermination	\$54,721.27
Interest through 12/31/05 (tax paid in full on 12/16/05)	<u>17,095.52</u>
Total tax and interest	\$71,816.79
Payments	<u>-71,816.79¹</u>
Balance Due	<u>\$ 00.00</u>

This matter was scheduled for Board hearing on June 20, 2007, but was postponed because petitioner's representative was out of town on the same day. It was then rescheduled for Board hearing on October 2, 2007, but was postponed to allow time to respond to a Request for Reconsideration.

UNRESOLVED ISSUES

Issue 1: Whether petitioner's sales of meals to campers were exempt sales of student meals.

We conclude that the exemption does not apply.

¹ The total amount paid by petitioner is \$97,714.00. The difference of \$25,897.21 (\$97,714 - \$71,816.79) is in the process of being refunded in two refunds, of \$21,060.25 tax, plus applicable interest, and \$4,836.96.

1 Petitioner, a non-profit corporation, operates a camping facility. Petitioner describes itself as a
2 Christian outreach organization that primarily serves junior high and high school students. As relevant
3 here, petitioner conducts Young Life Outreach summer camps (“camp”), each session of which lasts
4 for one week.²

5 A lump-sum amount is charged for each participant at the camp, which includes meals,
6 lodging, and activities. According to petitioner, the lump sum fees cover approximately 80 percent of
7 the camp’s operational costs, and the remaining 20 percent are subsidized by donations. Petitioner
8 claimed the meals furnished to campers under the age of eighteen as exempt sales of student meals.
9 Petitioner claims that these sales were exempt sales of student meals under California Code of
10 Regulations, title 18, section (Regulation) 1506, subdivision (g) because two of the activities at the
11 camp, the challenge course and “the Club,” constitute regularly scheduled classes conducted by
12 qualified instructors with mandatory attendance on the part of the campers.

13 Revenue and Taxation Code section 6363 provides an exemption for the sale of meals served or
14 furnished to students of public or private schools, school districts, or student organizations. Regulation
15 1506, subdivision (g), explains that sales of meals by a camp can qualify for the exemption where the
16 camp conducts regularly scheduled classes, with required attendance, in charge of qualified instructors.

17 The issue here is whether this camp qualifies as a school or educational institution as those
18 terms are used in Regulation 1506. Petitioner relies on a letter sent by a Board staff attorney to the
19 American Camping Association on May 12, 1967, which states that there is no general exemption for
20 sales of meals at summer camps, but notes an exception to that general rule for sales of meals at
21 children’s camps because “[a]lmost all children’s camps have a sufficient educational program to
22 qualify under [the section 6363 exemption].” This is a letter from the Board’s legal staff to an
23 organization. Not only did the letter pre-date the adoption of Revenue and Taxation Code
24 section 6596, it was also not issued to any specific camp or about any specific camp, and thus, even
25 now, would not qualify as written advice on which petitioner could rely under section 6596. Further,
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27 ² Petitioner provided meals and lodging for sixth grade students for nature and environmental programs administered by
28 Sutter County Schools. These sales, which the Department found were exempt sales of student meals, are not in dispute.

1 we find that the letter does not state a correct rule, and it does not appear that the letter reflects the
2 Department's actual policy regarding administration of the exemption.

3 We conclude that a camp does not qualify for the exemption unless it is operated in the manner
4 of a school or educational institution in a camp setting, and not as a summer camp with educational
5 aspects. Petitioner itself agrees that its camp is a typical summer camp. Since we find that the
6 exemption actually extends only to a camp that is operated as a school in a camp setting, we conclude
7 that petitioner's camp does not qualify as a school for purposes of the exemption, and none of its sales
8 of meals qualify for exemption.

9 **Issue 2:** Whether petitioner should be regarded as a consumer, rather than a seller, of meals.

10 We find that it should not.

11 Petitioner contends that it should be regarded as a statutory consumer of meals pursuant to
12 Revenue and Taxation Code section 6361 because its primary purpose is to promote good citizenship
13 in youth. To come within section 6361, the sales must be on an "irregular or intermittent basis." We
14 find that petitioner's operations cannot be properly regarded as on an irregular or intermittent basis.
15 Accordingly, we find that petitioner does not qualify as a statutory consumer under Revenue and
16 Taxation Code section 6361.

17 AMNESTY

18 The amnesty interest penalty is not applicable in this case because petitioner filed an
19 application for amnesty and entered into a qualifying installment payment plan.

20 RESOLVED ISSUE

21 The Department had used the markup method, adding an estimated markup of 100 percent to
22 the audited cost of food sold to compute the audited sales of meals. Petitioner contended that this audit
23 method overstated the audited sales of meals to camp participants. Thus, in addition to its contention
24 that the meals were exempt, it also protested the audited amount of sales of meals, in the event that it
25 did not prevail on the first contention.

26 In the SD&R, we identified a significant flaw in the Department's audit methodology. As
27 noted previously, the amounts received specifically for each camper were not sufficient to cover the
28 expenses of the camp. As a result, to cover all the camp's costs, petitioner relied on donations. The

1 Department concluded that those donations represented additional gross receipts. We found this
2 conclusion incorrect and therefore found that it was not appropriate to add a markup to food costs to
3 establish the audited sales of meals.

4 Since petitioner's gross receipts were limited to the lump sum payments specifically for
5 campers (excluding donations), it was necessary to pro-rate those payments among the various
6 components, such as food, lodging, and activities, to establish petitioner's receipts from each
7 component. Further, since those payments were, apparently without dispute, less than petitioner's cost
8 of operating the camp, we found the gross receipts from sales of meals would be less than petitioner's
9 cost. In the SD&R, we recommended that the Department pro-rate the total amount of lump sum
10 payments specifically for campers to calculate taxable gross receipts from sales of meals to campers.
11 We suggested three reasonable methods to accomplish that calculation.

12 In the reaudit dated July 16, 2009, the Department computed percentages of food expense to
13 total expenses of 21 percent, 23.97 percent, and 22.72 percent for the fiscal years ending
14 September 30, 2001, 2002, and 2003, respectively. The Department applied those percentages to total
15 camp fee revenue to compute audited total sales of meals for each fiscal year. To compute the audited
16 taxable sales of meals, the Department deducted the revenue from exempt sales of meals to Sutter
17 County Schools. If its sales of meals were taxable (which it disputes as explained above), petitioner
18 would accept the reaudited measure of tax due

19 **OTHER DEVELOPMENTS**

20 None.

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22 Summary prepared by Deborah A. Cumins, Business Taxes Specialist III
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