

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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(916) 324-5589

September 8, 1989

Mr. [O]
Certified Public Accountant
XXXX --- ---, Suite X
---, California XXXXX

[S]
S- -- XX-XXXXXX

Dear Mr. [O]:

On January 26, 1989, Mr. Robert Stipe of this office wrote to you regarding the correct application of tax to the gross receipts from sales of certain weight loss products, specifically Medifast and Pro-Call 100. We wish to clarify certain portions of Mr. Stipe's letter.

Mr. Stipe correctly informed you that your client's sale of Medifast and Pro-Call 100 was not subject to tax. Our office has recently completed a review of this area. We have determined that these products are exempt from tax because they qualify as exempt "food products" pursuant to Sales and Use Tax Regulation 1602 rather than exempt prescription medicines. This change in the basis for the exemption, i.e., from medicines to food products, will not affect your client in that he may purchase both "Medifast" and "Pro-Call 100" on an ex-tax basis. If these products are the only items he sells, he would not be required to hold a seller's permit. In this event, he should surrender his seller's permit at the Torrance District Office, 690 West Knox Street, (213) 516-4300, as soon as possible.

If you have further questions regarding this matter, we will be happy to discuss them with you.

Very truly yours,

Mary C. Armstrong
Senior Tax Counsel

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