

Texas Comptroller of Public Accounts STAR System

8107L0357E08

July 21, 1981

Dear *****;

Thank you for your letter regarding the taxability of your *****
retail operation.

All individual portions of ice cream such as your cones, cups, sundaes, malts, etc., will be taxable unless they are sold as an unopened prepackaged unit containing six or more of such items.

The sale of ice cream in bulk quantities of pints, quarts, half-gallons and gallons will not be taxable unless you provide eating utensils with these items.

Whole cakes and pies will also qualify for exemption as long as you do not provide eating utensils with these items.

Adequate records must be maintained which distinguish the taxable from the non-taxable sales. If this cannot be done, all sales will be taxable.

If you should have different or additional facts, this opinion may change. If you have further questions, please feel free to write me or call at 1/800/252-5555.

Sincerely,

George Aguirre
Sales Tax Division

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