

**SUMMARY**

The purchase and use of sanitizing and sterilizing agents by a processor and seller of dairy products to sterilize and sanitize the product control surfaces of all equipment used in the processing, handling, and storage of dairy products for the purpose of removing or deactivating any microorganisms is subject to tax as tangible personal property under section 212.05, F.S. A sale for resale does not occur as the agents are not intended to be a part of the finished dairy products but are instead used to sanitize and sterilize the surfaces of equipment used in the processing, handling, and storage of the dairy products. There exists no statutory exemption from tax for the purchase and use of the agents as described. The fact that Federal and State regulatory agencies require the use of the agents on all the equipment used in the processing, handling, and storage of the dairy products, does not operate to provide and exemption from tax.

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Feb 26, 1998

Re: TAA 98A-005

Purchase of Sanitizing and Sterilizing Agents  
Section 212.05, F.S,

Dear :

This is in response to your letter of December 18, 1997, in which you requested the issuance of a technical assistance advisement on behalf of your client XXX [hereinafter "Taxpayer"] regarding the taxability of its purchase and use of sanitizing and sterilizing agents.

In your letter you explained that Taxpayer is a processor and seller of fluid dairy products, such as heavy cream, half-and-half, whole milk, lowfat milk, skim milk, eggnog, buttermilk, etc. You explained further that Taxpayer is

required by the U.S. Food and Drug Administration (FDA) and state regulatory authorities to thoroughly sanitize and sterilize the product-control surfaces of all equipment used in the processing, handling, and storage of milk products for the purpose of removing or deactivating any microorganisms present by using chemical agents such as methylene blue solvent, hydrochloric acid, thiosulphate, phosphoric acid, potassium iodine, etc. You wish to know whether Taxpayer's purchase and use of the sanitizing and sterilizing agents as outlined above are exempt from sales and use tax or whether they are free of tax as purchases for resale.

#### DEPARTMENT RESPONSE

The Taxpayer's purchase and use of the sanitizing and sterilizing agents as outlined in your letter does not constitute a sale for resale. In this instance, a sale for resale implies that the agents become a part of the dairy products that are sold by the Taxpayer. The agents are not intended to be a part of the finished dairy products but are instead used to sanitize and sterilize the surfaces of the equipment used in the processing, handling, and storage of the dairy products. Therefore, a sale for resale does not occur. Exemptions from taxing statutes are special privileges granted by the legislature and must be strictly construed, "with any doubt being resolved in favor of the state." State v. Belle, 286 So.2d 529 (Fla. 1974). See also United States Gypsum v. Green, 110 So.2d 409 (Fla. 1959); Green v. Pederson, 99 So.2d 292 (Fla. 1957).

There exists no statutory exemption from tax for the purchase and use of sanitizing and sterilizing agents by Taxpayer to be used to sanitize and sterilize the products' contact surfaces of all equipment used in the processing, handling, and storage of milk products. The fact that Federal and State regulatory agencies require Taxpayer to use the sanitizing and sterilizing agents on all equipment used in the processing, handling, and storage of the milk products does not operate to provide an exemption from tax. In the absence of a specific exemption, such purchases of said items are subject to tax as purchases of tangible personal property under section

212.05, F.S.

The regulation cited in your letter 12A-1.001(5)(b), F.A.C., does not apply. It states that disinfectants used in dairy barns for the purpose of protecting cows or used directly on livestock are exempt. It provides no exemption from tax for the purchase and use of sanitizing and sterilizing agents which are used to sanitize and sterilize dairy products processing equipment.

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the department only under the facts and circumstances described in the request for this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response and your request are public records under Chapter 119, F.S., which are subject to disclosure to the public under the conditions of s. 213.22, F.S. Your name, address, and any other details which might lead to identification of the taxpayer must be deleted by the Department before disclosure. In an effort to protect the confidentiality of such information, we request you notify the undersigned in writing within 15 days of any deletions you wish made to the request or the response.

Sincerely,

Richard S. Harrod  
Senior Tax Specialist  
Technical Assistance & Dispute  
Resolution

RSH/h

Control No. 32390

