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## Letter Ruling 96-3: Applicability of the Sales Tax to Flax Seed Oil

November 18, 1996

You request a letter ruling regarding the applicability of the Massachusetts sales tax to \*\*\*\*\*  
Flax Seed Oil. The sole content of the product is unrefined, organically produced, virgin flax seed oil. Flax seed oil is a derivative of the seed of flax which is defined in Webster's Ninth New Collegiate Dictionary (1984) as a genus of herbs. The recommended uses for Flax Seed Oil, according to the label, are as a butter substitute, food dressing, condiment, or for use in salad dressings, dips, spreads or sauces and blender creations, or as a nutritional supplement. The product is sold, in the particular store you frequent, in the dietary supplements section in bottles containing 12.75 fl.oz.

Massachusetts imposes an excise upon the retail sales of tangible personal property, unless otherwise exempt. Where applicable, the excise is imposed at the rate of five percent of the sales price of the property or services sold. G.L. c. 64H, §§ 1, 2.

Massachusetts exempts from sales tax the sale of food products for human consumption but excludes from the definition of food products "medicines, tonics and preparations in liquid, powdered, granular, tablet, capsule, lozenge and pill form sold as dietary supplements or adjuncts." See G.L. c. 64H, § 6(h). Herbs and spices and food substitutes are listed generally in the Department's regulation, Sales Tax on Meals (830 CMR 64H.6.5(4)) as exempt food products.

Since the product is considered to be an herb and the recommended uses listed on its label include such uses as a butter substitute, food dressing and as an ingredient in dips and spreads, it is ruled to be a food product (See 830 CMR 64H.6.5(4)) and therefore the sales of the product are exempt from Massachusetts sales tax under G.L. c. 64H, § 6(h).

Very truly yours,

/s/Mitchell Adams

Mitchell Adams  
Commissioner of Revenue

MA:HMP:jet

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