

STREAMLINED SALES AND USE TAX AGREEMENT
COMPLIANCE REVIEW AND INTERPRETATIONS COMMITTEE

Interpretative Opinion 2009-04

This Interpretative Opinion recommendation is made to the Governing Board by the Compliance Review and Interpretations Committee this day of July 2, 2009 in accordance with Article IX, Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

The party requesting the interpretation is Software Woodman's Food Markets, Inc. represented by Steve Kaukl. The request was made on April 10, 2009.

Issue

Woodman's Food Markets, Inc. raises an issue with regard to the definition of candy. Certain baking ingredients have the characteristics of candy but are not intended to be consumed as candy. The example given was M&M's Baking Bits which are intended to be used as an ingredient in the making of cookies and other baked desserts. The issue presented is whether baking ingredients such as M&M's Baking Bits meet the definition of candy under the Agreement definitions. The requester proposes that an interpretation be made that such baking ingredients are not candy.

Public Comment

No state or public written comments were received.

Recommendation

By a unanimous vote, the Compliance Review and Interpretations Committee submits to the Governing Board a recommendation that the interpretation proposed by the requester not be accepted.

Rationale

The Agreement defines "candy" to mean a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. The definitions in the Agreement are meant to be objective tests to determine the classification of an item and the intent of the user is not relevant. Baking ingredients such as M&M's Baking Bits meet the definition of candy and should be classified as such.

Participating Committee Members

Larry Wilkie, Myles Vosberg, Tony Mastin, Tom Atchely, Rep. Deb Peters.