

**STREAMLINED SALES AND USE TAX AGREEMENT  
COMPLIANCE REVIEW AND INTERPRETATIONS COMMITTEE**

Interpretative Opinion 2011-01

This Interpretative Opinion recommendation is made to the Governing Board by the Compliance Review and Interpretations Committee this day of December 1, 2011 in accordance with Article IX, Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

Mr. Ken Nogueira requested an interpretation on August 12, 2011.

Issue:

Mr. Nogueira asked whether wood chunks used for flavoring in cooking qualifies as “food and food ingredients.” According to the facts presented, the Company is a restaurant company that features “wood-grilled” items on its menu. The Company purchases Hickory wood chunks to use as an ingredient to flavor items on its menu. During the cooking process, the Hickory wood chunks are soaked in water and placed in a smoker under the grill. As the smoldering wood burns, it releases compounds that impart a unique flavor and are a key ingredient in a number of “woodgrilled” items on its menu. Mr. Nogueira requests a ruling that the company’s sales of its wood chunks qualify as sales of “food and food ingredients” as that phrase is used in the Streamlined Sales and Use Tax Agreement (“SSUTA”), Appendix C.

Public Comment:

Three states recommended that the interpretation request not be approved.

Recommendation:

By a unanimous vote of the members present, the Compliance Review and Interpretations Committee submits to the Governing Board a recommendation that the interpretation proposed by the requester not be accepted and that wood chunks do not qualify as food and food ingredients.

Rationale:

The Agreement defines “food and food ingredients” as “substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.” *SSUTA, Appendix C- Library of Definitions, Part II “Product Definitions.”*

The wood chunks, even those containing natural compounds or additives that emit a particular aroma or vapor, are not sold for ingestion or chewing by humans. The wood chunks, when heated, create smoke which flavors the food item that is smoked, but the wood chunks are not eaten by humans and do not become a component part of and are not added to the food product.

Based upon the forgoing, the wood chunks do not qualify as a “food and food ingredient” because it is not sold for ingestion or chewing by humans.

Participating Committee Members:

Tom Atchley, Craig Johnson, Richard Cram, and Tim Jennrich