



STATE BOARD OF EQUALIZATION

916-445-3723

February 29, 1984

Dear Begin deleted text REDACTED TEXT End deleted text,

This is in reply to your letter of February 14, 1984.

We understand that your company sells medical supplies. You specialize in incontinent supplies; that is, disposable adult diapers, pant and pad systems, etc. You have recently received an order from a woman with MS. She has a doctor's prescription for your product, and she said that it was her understanding that she would not have to pay tax. You have assumed that, even with a prescription, sales tax is required.

Our Regulation 1591, "Prescription "medicines" provides that sales tax does not apply to sales of items classified as "medicines" under paragraph (b) of the regulation, if the medicines are sold on a prescription basis. It is true that the exemption applies to a number of items such as vaseline, rubbing alcohol or medical oxygen which can typically be purchased without prescription. However, these items meet the definition of the term "medicines," and thus if they are bought in accordance with the order of a physician and surgeon the sale is exempt. Incontinent supplies of the type in question, however, do not come within the definition of the term "medicine." The items in question are excluded from "medicines" under paragraph (c) (3) of the regulation. Accordingly, tax applies to the sale of the items in question notwithstanding the fact that they are sold on a prescription basis.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ/jkr