



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-5550

March 9, 1983

Ms. P--- S. W---
C--- M--- S---
XXXX --- --- Road
---, CA XXXXX

Dear Ms. W---:

SY --- XX-XXXXXXXX

Your letter of January 10, 1982, to Mr. O. D. Millette of our Oakland office has been referred to me for reply.

As you are aware, Chapter 1423, Statutes of 1983, operative January 1, 1983, exempts from the sales and use tax "any medical oxygen delivery system, including, but not limited to, liquid oxygen containers, high-pressure cylinders, and regulators, when sold, leased, or rented to an individual for the personal use of that individual as directed by a physician." You ask whether the following items fall within the purview of that exemption.

Oxygen Concentrators

This is a device that concentrates oxygen by pumping air through a separating unit containing a unique sieve material. This sieve retains the oxygen content of the air and permits the oxygen to be separated and concentrated into a reservoir for breathing by the patient. The oxygen flows through a meter dosing device and is delivered to the patient via nasal cannulae. Nearly pure oxygen is produced; ninety two percent at 2 liters, for example.

- Oxygen Tanks
- Regulators
- Humidifiers
- Cannulas
- Masks
- Oxygen Stands
- Oxygen Carts
- Tubing

Each of the above items constitutes a part of the medical oxygen delivery system and is exempt when sold, leased, or rented to an individual for the personal use of that individual as directed by a physician.

You state that you also sell emergency oxygen units. These come in small cylinders such as the Mada Unit which is portable and comes with a fixed flow and with an adjustable flow which has a regulator. You also sell a Lif-O-Gen unit, which is an emergency unit that gives oxygen up to fifteen minutes. These units are allowed to be sold without a prescription, and you have also charged sales tax on them. You state that some customers are insisting that sales tax should not be charged.

Prior to January 1, 1983, sales tax would apply on your sales of these units unless they were sold upon prescription of a physician, in which case the oxygen could be purchased ex tax. The small cylinders sold with the oxygen would be exempt as containers. If these are returnable, then tax would apply with respect to the containers as explained in Regulation 1589, copy enclosed.

Beginning, January 1, 1983, tax would not apply to the sale of these liquid oxygen units provided they were sold, leased, or rented to an individual for that person's personal use, as directed by a physician. Otherwise, tax applies. Again, if the containers are returnable containers, tax would apply to those as explained in Regulation 1589.

If you have any further questions, please feel free to write to us.

Very truly yours,

John H. Murray
Tax Counsel

JHM:at

Enclosure