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September 17, 1992

BURTON W. OLIVER
Executive Director

Ms. K--- K---
G--- M--- Corporation
XXXX --- Road
P.O. Box XXXXX
---, -- XXXXX-XXXX

Re: SZ – XX-XXXXXX
Sales Tax on Medical Supplies

Dear Ms. K---:

I am responding to your latest letter to me, this one dated June 24, 1992. You asked if sales or use tax applies to sales by your company ("GMC") of certain medical items.

OPINION

In our previous correspondence I have discussed the legal principles governing the prescription medicines exemption from sales and use tax provided by Revenue and Taxation Code Section 6369, interpreted and implemented by Regulation 1591, and so for the sake of brevity will not repeat it here. (Unless otherwise stated, all further statutory citations are to the Revenue and Taxation Code.) Please remember that, as a rule, items used to diagnose a condition or to apply medicine or treatment to the patient are not considered to be medicines. (Reg. 1591(c)(2).)

Based on the above standard, we conclude as to the items at issue as follows:

1. Lemon Glycerin Swab Stick. "This disposable item is utilized for oral lubrication for patients on oxygen, general anesthesia, drug therapy, or restricted diet." It appears, then, to be used to facilitate other therapy and so is considered a device, etc., excluded from the definition of the term medicine under Regulation 1591(c)(2). Tax applies to sales of this item.

2. Thiortic Cannula. "This items is utilized during open heart surgery. It's purpose is to circulate the blood during surgery. It is mostly within the body during surgery and is removed after the surgery is completed." Items used temporarily during surgery are considered taxable devices.

3. Suction Catheter. This item is used to suction mucous out of the body during respiratory therapy. It is a disposable item." We have previously determined that suction catheters are also taxable devices.

I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Tax Counsel

JLW:es

bc: --- District Administrator