

M e m o r a n d u m**425.0167.500**

To: Mr. Donald Herrman
Senior Tax Auditor
Audit Refund Section – MIC:39

Date: July 11, 1996

From: Gary J. Jugum
Assistant Chief Counsel

Subject: Impregnated Dressings,
Bubble/Silent Humidifiers

This is in response to your memorandum of May 30, 1996, addressed to John Waid.

You have raised questions with respect to the application of Revenue and Taxation Code section 6369, which exempts from tax sales of "medicines," under certain circumstances. While medicines may be exempt, the term "medicines" does not include "dressings."

Your first question has to do with impregnated dressings. Our understanding of this matter is as follows. Medicines are exempt. If a dressing has been impregnated with a medicine, we treat the dressing as a medicine. Petroleum jelly is a medicine. X-----and petroleum jelly are the same thing. One of the dressings which is of concern to you is manufactured by X----- and described as a X----- dressing. These dressings have a skin contact adhesive. "containing hydroactive particles." The question then is, what are the hydroactive particles? If this substance otherwise qualifies as a medicine, then the dressing is a medicine, because the dressing and thus the medicine is applied to the skin. I don't know that there is a need to make metaphysical distinctions. There is no need to worry about the function performed by the dressing. The question is whether the impregnated substance is a medicine, and we don't know the answer to that question in this case.

The second question you raise has to do with humidifier prefilled sterile water. Our understanding is that distilled water is not a medicine, but we have treated (rightly or wrongly) sterile water as a medicine. The sale of sterile water in bulk or in unitized containers would be nontaxable, if sold under the conditions prescribed by the statute. The sterile water is used to aid the administration to patients of oxygen and other medical gasses by means of humidification. The sterile water is thus applied to lung tissue and qualifies for exemption.

GJJ:sr

Cc: Mr. John L. Waid