

**STATE BOARD OF EQUALIZATION**

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July 8, 1987

Ms. D--- D---
Chief Accountant
C--- A--- of S---
--- --- Park
--- ---, CA XXXXX

Dear Mrs. Davis:

Your May 22, 1987 letter to Tax Counsel R. L. Dick has been referred to me for a reply. You request our opinion concerning the correct application of California Sales and Use Tax Law to a certain transaction.

As I understand the facts, the City and County of San Francisco purchases antivenin (an antitoxic serum used to neutralize snake venom) for the S--- A--- from W---, a medical supply house located in California. Included among the exhibits of reptiles at the A--- are venomous snakes. The antivenin is kept in stock by the A--- for emergency use on employees and persons suffering from venomous snake bites. You inquire whether the gross receipts from the sale of the antivenin are subject to tax.

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers from all retail sales of tangible personal property in this state (Rev. & Tax. Code § 6051). Section 6369(a) (5) of the Revenue and Taxation Code exempts the gross receipts from the sale of medicines sold to any political subdivision or municipal corporation of this state for use in the treatment of a human being from tax. Section 6369(b) defines medicines to mean and include "any substance or preparation intended for use by external or internal application of the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use...." Finally, Webster's New World Dictionary, Second College Edition, defines a disease to include a particular destructive process in an organ or organism, with a specific cause and characteristic symptoms.

Applying the above criteria, it is our opinion that a venomous snake bite is a disease as defined and that antivenin serum used to neutralize the snake bite is a medicine intended for the internal application to the human body to mitigate the disease pursuant to section 6369(b). It is also our opinion that the City and County of San Francisco is a political subdivision of California pursuant to section 6369(a)(5). Accordingly, the gross receipts from the sale of antivenin to the City and County of San Francisco, as described, are not subject to tax.

I hope the above information is helpful. Enclosed for your review and reference is a copy of Sales and Use Tax Regulation 1591 (Prescription Medicines) which interprets and applies the Revenue and Taxation Code. If you have any further questions concerning this topic, please do not hesitate to write this office.

Very truly yours,

Robert J. Stipe
Tax Counsel

RJS:sr

Enc.