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**STATE BOARD OF EQUALIZATION**  
916-322-6083

January 9, 1976

Ms. [A]  
XXX --- ---  
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Dear Ms. [A],

Your letter dated December 30, 1975 addressed to Mr. Charles Otterman has been referred to the undersigned for reply. You inquire as to the application of sales tax to sales of three specific contraceptives.

We understand that all three contraceptives are insert devices prescribed by physicians. One, [X], releases hormones into the uterus to prevent conception. Two of them, [Y] and [Z], leach copper into the uterus to prevent conception.

Section 6369 of the Revenue and Taxation Code provides an exemption from tax for the sale of medicines when the medicine is:

- (1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines and dispensed on prescription by a registered pharmacist; or
- (2) Furnished by a licensed physician to his own patient; or
- (3) Furnished by a hospital for treatment of a person pursuant to the order of a licensed physician; or
- (4) Sold to a licensed physician or hospital for the treatment of a human being.

“Medicine” is specifically defined to exclude articles in the nature of apparatus, contrivances, appliances, devices, or physical equipment.

We are of the opinion that [X], when prescribed and furnished to a human being in the manner required, is a medicine within the meaning of the Sales and Use Tax Law, and is exempt from tax. It appears that the copper contraceptives operate chemically. We would consider that the

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definition of medicine is met, and sale of the copper contraceptives would be exempt from tax if they are properly prescribed and furnished.

If you have any further questions, please contact us again.

Very truly yours,

H. L. Cohen  
Tax Counsel

HLC:js