

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
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(916) 324-5589

August 1, 1989

Mr. [H]  
President  
[M]  
XXXX --- ---  
--- ---, California XXXXX

S- -- XX-XXXXXX

Dear Mr. [H]:

This is in response to your letter of June 21, 1989, to the Audit Evaluation and Planning Unit regarding your company's sales of CPM Pads and Hypothermia Blankets. You would like to know whether the CPM Pads and Hypothermia Blankets qualify as exempt prescription medicines under Sales and Use Tax Regulation 1591.

Both the CPM Pads and Hypothermia Blankets are used in conjunction with Hot/Ice Machines as part of the orthopedic surgical process post operatively to promote the healing process in human beings. They may only be used on a prescription basis.

Effective October 1, 1977, certain orthotic devices "designed to be worn on the person of the user as a brace, support, or correction for the body structure" were included in the definition of exempt prescription medicines. Each orthotic device must be fully worn on the patient. According to the information supplied in your letter, the CPM Pads and Hypothermia Blankets are only used in conjunction with the Hot/Ice Machine and in fact have no function without the machine.

Additionally we note that they have other uses aside from acting as a "brace, support, or correction" for the body structure since they are also used after implantation surgery and to control body temperature. Because the pads are not functional without the machines and thus cannot be fully worn on the patient, we are of the opinion that neither the CPM Pads nor the Hypothermia Blankets qualify as exempt orthotic devices under Regulation 1591.

Mr. [H]

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August 1, 1989  
425.0292

If you have further questions concerning this matter, please write this office again.

Very truly yours,

Mary C. Armstrong  
Senior Tax Counsel

MCA:wak

cc: Phillip K. Klepin  
Audit Supervisor, San Diego