



STATE BOARD OF EQUALIZATION

October 30, 1972

Dear Mr. X-----:

This is in reply to your letter of September 28, 1972, which was received in this office on October 12, 1972.

You raise questions as to the application of the sales and use taxes to sales of artificial limbs for human beings and to sales of other items.

As you are aware, Section 6369 of the Revenue and Taxation code, the provision which exempts from the tax certain sales of "medicines," was recently amended, effective October 1, 1972. [See our Regulation 1591 "Prescription Medicines," copy enclosed.]

With regard to specific items mentioned by you, our advice is as follows:

(1)(2)(3) Although not all sales of artificial limbs would qualify for the exemption from tax (tax would apply to the sale of an artificial limb to a medical training facility if the limb were to be used merely to train a prosthetist in the fitting of such a device), we think it within the intent of the Legislature that tax would not apply where an artificial limb is sold to a patient for his own use, regardless of the fact that the limb may have been furnished to the patient directly by an orthopedic specialist and only indirectly by a physician. [Reg. 1591, Para. (a)(2).] It is our opinion, then, that all sales of artificial limbs for actual use as prostheses qualify for exemption from the tax.

(4) It is our opinion that tax applies to sales of stump socks even though such items are special-knitted and even though the limb cannot be worn without such items.

(5) Tax does not apply to sales of replacement parts for artificial limbs.

(6) Tax applies to sales of orthotic braces.

(7) Tax does not apply to cosmetic artificial devices such as leg covers for lady's prosthesis or to soft padding on artificial leg prosthesis. Such items are regarded as a part of the "artificial limb"

(8) Tax applies to sales of artificial ears, noses, and maxillo facial prostheses.

- (9) There has been no change in the law with respect to the taxation of stump cream (for healing sores).
- (10) Tax applies to sales of canes and crutches even though such items may be worn by the patient with an artificial limb so the patient can balance better.
- (11) Tax applies to sales of wheelchairs, walkers, and other sickroom supplies and aids.
- (12) Tax applies to sales of breast prosthesis.
- (13) Tax applies to sales of bras which incorporate breast prosthesis.
- (14) Tax applies to sales of arch supports and shoe inserts for malformed feet.
- (15) Tax does not apply to sales of artificial limbs applied in hospital rooms. [Reg. 1591, Para. (a)(3).]
- (16) Tax applies to sales of cast braces applied in hospitals or in facilities certified by the American Board for Certification.

Very truly yours,

Gary J. Jugum
Tax Counsel

GJJ/ab
Enclosure

Bc: Headquarters – Evaluation and Planning
Hollywood – District Administrator