



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
916/ 445-2641

September 20, 1985

Ms. H--- L---
Controller
M--- C--- Hospital
XXXXX --- --- Road
--- ---, California XXXXX

Dear Ms. L---:

Your letter of August 26, 1985 has been referred to the undersigned for reply. You request our opinion as to the correct sales tax status, i.e., "medicine" or non—"medicine," of the items which are sold to M--- C--- Hospital. You have enclosed a copy of your computer printout, "Charge Description Master," for our review.

The computer printout you have sent to us contains many abbreviations and lacks descriptions of the items listed. Without a description as to the exact nature and use of the items sold to M--- C--- Hospital, we are unable to give you a definite answer as to whether or not sales tax applies to the sale of these items. We have agreed with Mr. Hillard Lewis, District Principal Auditor of our --- --- District Office, to have his staff contact and work with you in deciding which items on the computer printout require study and an opinion by this legal staff. We shall send Mr. Lewis the computer printout.

However, we can state our interpretation of Revenue and Taxation Code Section 6369, "Prescription Medicines," and provide you with some general guidelines to follow in determining whether an item is an exempt medicine.

California Sales and Use Tax Law imposes tax on the sale or use of tangible personal property in this state, unless such sale or use is otherwise exempt from taxation. Revenue and Taxation Code Section 6369 exempts from tax the gross receipts from the sale, the storage, the use or other consumption in this state of medicines. "Medicines" as defined in Section 6369 to mean and include:

"...any substance or preparation intended for use by external or internal application to 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."

Section 6369(c)(1) and (2) provides that the term "medicines" includes sutures, whether or not sutures are permanently implanted, bone screws, bone pins, pacemakers, and other articles permanently implanted in the body to assist the function of all or any part of any natural organ, artery, vein or limb.

Section 6369(c)(3) and (4) provides that the term "medicines" also includes orthotic devices or replacement parts for such devices, designed to be worn on the person of the user as a brace, support, or correction for the body structure; prosthetic devices and replacement parts for such devices, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body; (see listing attached).

Furthermore, mammary prosthesis and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste are deemed to be dispensed on prescription within the meaning of Revenue and Taxation Code Section 6369.

Notwithstanding the above analysis, as to tax exempt medicines, the following items are excluded from the term "medicines": splints, bandages, pads, compresses, supports, non-medicated dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or component parts thereof.

Also excluded from the term "medicines" are orthopedic shoes and supportive devices for the foot unless they are an integral part of a leg brace or artificial leg; and any auditory, ophthalmic, and ocular devices or appliances.

For your convenience, pages 4, 5, 6 and 7 contain a list of items used frequently used by hospitals, considered to be exempt or taxable. Sales and Use Tax Regulation 1591 "Prescription Medicines" and our brochure "Tax Tips for Hospitals" are also enclosed to provide further detailed information.

We will be happy to furnish you with a more definite answer regarding sales tax to items which are sold to M--- C--- Hospital following receipt of a description of the items in question.

Very truly yours,

Donald J. Hennessy
Tax Counsel

DJH:ba

bc: Orange County – District Administrator
 Ms. Vickie Owen

The following items are classified as taxable non-medicines within the definition of Revenue and Taxation Code Section 6369:

TAXABLE “NON-MEDICINES”

Arch Supports	Exercise Weights
Auditory Devices	Foot Orthoses
Bacteriological Culture Medium	Hospital Beds
Bandages (other than those used for ostomy patients)	Hypodermic Needles
Bed Pads	Instruments
Bed Traction Units	Intravenous Equipment and Tubing
Blood Pressure Kits	Mechanical Equipment
Cervical Pillows	Microlert Devices
Compresses	Mucolytic Reagents for Vitra Testing
Contrivances	Ocular Devices or Appliances
Dental Prosthetic Devices and Appliances	Ophthalmic Devices or Appliances
Distilled Water used for Drinking	Orthodontic Devices and Appliances
Non-medicated Dressings (other than those used for ostomy patients)	Orthopedic Shoes and Supportive Devices for the Foot
Electronic Equipment	Physical Equipment
Electrocardiographs, Metabulators and related Accessories	Plastazote Shoes

Pollen Extract

Seven-Up and other Carbonated
Drinks

Space Blankets

Spinal Anesthetic Trays

Splints (not otherwise qualifying
as orthotic devices for exempt
foot splints are taxable)

Stethoscopes

Surgical Soap for Sterilizing
Surgeons' Hands

Syringes

Thermometers

Traction Units (other than
those fully worn on the
patient)

Uroscreen

Water Conditioning Systems

The following items are classified as exempt medicines within the definition of Revenue and Taxation Code Section 6369:

EXEMPT “MEDICINES”

Abduction Pillows	Elastic Bandages
Alcohol (Ethyl)	Enema Preparations in Disposable Container
Anesthetic Gases	Evacuators (Post Operative)
Anti-Embolism Stockings	Glucose and Substances used of Glucose Tolerance Tests
Artificial Kidney Dialysis Machines and Supplies	Humidification Kits
Artificial Limbs or Replacement Parts	Immobilizers
Baby Oil	Influenza Vaccine
Baby Powder	Insulin
Blood Plasma	Intrauterine Contraceptive Devices
Bone Screws	Intravenous Solutions
Cast Materials	Lubricating Jelly
Catheters (used as a result of an artificial opening in the human body)	Mammary Prostheses
Colostomy Bags and Supplies	Measles Vaccine
Contraceptive Pills, Creams Liquids, Tablets, and Capsule Preparations	Medicated Dressings
Corsets	Opaques given internally for Diagnostic X-Ray Photography
Diaparene Powder	Orthotic Devices
Distilled Water, Sterile Nonpyrogenic and Sterile Pyrogenic (specially processed	Oxygen
	Pacemakers

Dyes given internally for X-Ray
Diagnosis

Phisohex – for Patient's
Treatment

Prosthetic Devices

Radiopaques

Rib Belts

Rubbing Alcohol

Sabin Oral Polio Vaccine

Slings

Splints, Plastic or Other

Stump Socks

Stump Shrinkers

Supports

Support Hose

Surgical Cellulose Hemostats

Sutures

Tracheostomy Tubes
(Post-Operative)

Transcutaneous Nerve
Stimulators (only if
fully worn on or in the
body of the user)

Trusses

Vaccines

Vitamins for Treatment of
Human Beings

Walking Heels