

**M e m o r a n d u m****425.0800**

To: San Diego – District Administrator

Date: September 27, 1962

From: Tax Counsel (EHS) – Headquarters

Subject: Sabin Oral Vaccine

We have considered the question raised in your memo of September 25, with which you enclose a memo from the El Centro office stating that a representative of the X----- had inquired regarding the Sabine Oral Vaccine.

It is our considered opinion that the prescription medicine exemption is validly interpreted to exempt the sale of the Sabin Oral Vaccine. We believe that the so-called contributions or donations which the recipients make upon receipt of the vaccine is properly regarded as payment for the vaccine which, therefore, is considered to be sold to the recipient by the medical society or agency purchasing it from the drug store or other supplier and distributing it to the recipients at the clinics.

Since there is a licensed physician in charge at each clinic, we believe that the vaccine is supplied by a physician within the meaning of the prescription medicine exemption, and since no services are provided the payment is payment for the vaccine. The physicians collectively are purchasing the vaccine and reselling it and we believe the sale falls within the exemption. Even if we were to regard the medical society, physicians, or other sponsoring agencies as the consumer, we believe that the sale by the druggist might well be regarded as within the exemption, for as we understand it, he, the druggist, would require some prescription or similar authorization from a doctor or group of doctors before he could sell the vaccine for administration. However, we believe the druggist's sale is more properly regarded as exempt on the basis that it is sold for resale with the ultimate retail sale to the recipient being exempt under the prescription medicine exemption.

EHS:fb

Cc: San Bernardino – Auditing

Hon. Richard Nevins