

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-2488

July 6, 1978

Mr. J--- P. W---
Tax Manager
E--- M--- S---
--- and ---Roads
--- --- ---, -- XXXXX

Dear Mr. W---:

This is in reply to your letter of June 19, 1978. Your inquiry concerns the correct application of tax to sales of hemodialysis dialyzers, hunter tendon implants and tracheostomy and endotracheal tubes.

1. Hemodialysis dialyzers (coil type and hollow fiber type) allow filtration of the blood while a patient is undergoing treatment on an artificial kidney dialysis machine.

We have conclude that hemodialysis dialyzers are exempt from tax as related supplies used in conjunction with artificial kidney dialysis machines under Sales and Use Tax Regulation 1591(i).

2. Hunter tendon implants – a gliding tendon implant for reconstructive hand surgery.

We have previously concluded that Hunter tendon implants are exempt from tax under Regulation 1591(b)(2) which provides:

“Effective July 1, 1971, the term ('medicines') includes bone screws, bone pins, pacemakers, and other articles permanently implanted in the human body to assist the functioning of, as distinguished from replacing all or any part of, any natural organ, artery, vein or limb and which remain or dissolve in the body.”

3. Lanx tracheostomy and endotracheal tubes: Consists of a tube and cuff inserted by means of an incision in a human trachea; respirates patients and removes resulting metabolic waste.

We have determined that tracheostomy and endotracheal tubes qualify as prosthetic devices under Regulation 1591(b)(5) since they "assist the functioning of a natural part of the human body." Additionally, they qualify as "appliances . . . necessary as a result of a surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste." (Regulation 1591(i). We note that tracheostomy and endotracheal tubes do not qualify under either of the above quoted sections if they are used as to aide a patient temporarily during surgery. Their use must be post-operative.

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

Very truly yours,

Mary C. Armstrong
Legal Counsel

MCA:js