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December 20, 1993

Ms. K--- K---
 G--- M--- C---
 XXXX --- Road
 P.O. Box XXXXX
 ---, --- XXXXX-XXXX

BURTON W. OLIVER
 Executive Director

Re: SZ -- XX-XXXXXX
 Sales Tax on Medical Supplies

Dear Ms. K---:

I am responding to your letter to me dated October 28, 1993. You asked if sales or use tax applies to the sales by your company ("G---") of three medical items. You described their use in your letter and attached copies of descriptive brochure pages.

OPINION

In our previous correspondence, I have discussed the legal principles governing the prescription medicines exemption from sales and use tax provided by Revenue and Taxation Code Section 6369, interpreted and implemented by Regulation 1591, and so for the sake of brevity will not repeat them here. (Unless otherwise stated, all further statutory citations are to the Revenue and Taxation Code.) Please remember that, as a rule, items used to diagnose a condition or to apply medicine or treatment to the patient are not considered to be medicines. (Reg. 1591(c)(2).)

Based on the above standard, we conclude as to the items at issue as follows:

A. Catheter Leg Strap. You describe the use of this product as follows: "The strap merely secures the catheter to the patient's thigh." The copy of the brochure page on this item states that it secures "an indwelling Foley to patient's upper thigh without tourniquet action, eliminating the need for tape." Under Regulation 1591(b)(5) and (j), the sale of "related supplies" for the exempt item is exempt as well as the sale of the item itself. We have previously determined that sales of Foley catheters are exempt from tax under the above authority. So, then, are sales of straps used to secure such catheters to patients.

B. Urine Drainage System Meter. You request advice on the tax status of sales of a drainage system meter such as the one described in the enclosed brochure excerpt. Exhibit #2 to your letter shows the B--- Center-entry Urinary Drainage Bag with Reflux Device. It includes the following items: “anti-reflux valve, 2000ml round profile drainage bag, vented drip chamber, bag vent, large diameter tubing. Includes urine sample port on catheter connector, sheeting clip, handle with ‘living hinges’ for secure hanging, and latex outlet tube.” As you remember, the “related supplies” must be fully worn on the patients for their sales to be exempt under the above authority. You do not, unfortunately, indicate if this system meter hangs from the patient’s belt or from a pole. If the former, its sale is exempt, but if the latter, its sale is subject to tax.

C. Infusion Set. Your Exhibit #3 shows the --- - --- D--- Infusion Set which contains an inserter, adapter, needle, and flow-control plug. You do not indicate the type of infusion system to which these items are attached. Regular IV drug infusion systems are subject to tax. Programmable drug infusion systems worn or implanted in the human body have their own special exemption. (Reg. 1591(b)(7).) As with the Urine Drainage System Meter, the tax status of sales of this infusion set is controlled by that of the infusion system.

I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Tax Counsel

JLW:es