State of California

Board of Equalization
Legal Division (MIC:82)

M e m o r a n d u m

425.0247

To: Audit Evaluation and Planning Unit (BDR) Date: July 5, 1989

From: Mary C. Armstrong
Legal

Subject: Prescription Medicines

This is in response to your memorandum of May 24, 1989 regarding the correct application of tax to the Chemoport Immplantable Fluid Delivery System. You have also questioned two previous rulings on the subject which gave two different results. (See letter of July 26, 29895 from Mr. Ray Greenhouse and letter of August 7, 1986 from Mr. Les Sorensen.)

As we understand it, the Chemoport Implantable Fluid system is an implantable system consisting of a portal and catheter with a permanently locking connector. It allows for venous and arterial access for the infusion of medication, fluids, parenteral nutrition and sampling of blood.

The Chemoport Implantable Fluid Delivery System is not an exempt medicine. It does not qualify as an implanted device under Revenue and Taxation Code section 6369(c)(2) because it is not <u>permanently</u> (i.e. for six months or more) implanted. It is not a prosthetic device because it does not replace or assist the functioning of a natural part of the human body. Additionally, it does not qualify as a programmable drug infusion device under section 6369(c)(6) because it is not programmable.

The ruling previously given on the Mediport Implantable Vascular Access Port is incorrect. There may have been some confusion about how long these items are implanted. According to literature we have seen, the implantation would never be for six months or more. Mr. Sorensen's letter dated August 7, 1986 is correct.

MCA:sr