



STATE BOARD OF EQUALIZATION

November 28, 1969

P--- S--- Hospital
Department of Mental Hygiene
State of California
Box XXX
---, CA XXXXX

Attention: Mr. R--- G. C--- Jr.
Hospital Fiscal Officer

SR --- XX XXXXXX

ST -- XX-XXXXXX

P--- S--- Hospital Ward X

dba P--- G---

Gentlemen:

This is in reply to your letter of November 20, 1969, in which your request our opinion as to the proper application of the tax to purchases of certain items made by P--- S--- Hospital.

We understand that P--- S--- Hospital is operated by the State of California for the care and treatment of mentally retarded patients. The hospital purchases Diaperene powder, ethyl alcohol, and baby oil for use in the treatment of its patients. You ask, in effect, if these items qualify as "medicines" under section 6369 of the Revenue and Taxation Code and our ruling 22, "Pharmacists and Prescription Medicines."

The term "medicines" as used in ruling 22 means and includes 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.

In our opinion Diaperene powder, ethyl alcohol and baby oil qualify as "medicines" under this definition. Accordingly, since tax does not apply to sales of medicines for the treatment of a human being, which medicines are sold to this state for use in the treatment of a human being or furnished for the treatment of a human being by a medical facility maintained by this state, the sale of these items to P--- S--- Hospital is not subject to tax.

You also inquire as to whether it is necessary for the hospital to provide its vendors with any type of exemption certificate. In the past, we have suggested that the following form be furnished by hospitals to their vendors:

P--- S--- Hospital
SR --- XX XXXXXX &
ST -- XX XXXXXX

-2-

November 28, 1969
585.0280

“TAX EXEMPTION CERTIFICATE (HOSPITALS)

“I hereby certify that _____
(Name of hospital)

Qualifies as a hospital under provisions of section 6369 of the California Revenue and Taxation Code.

“I further certify that all medicines (as defined in the above cited section of the law) purchased from _____ will be either
(Name of Vendor)

sold or used for the treatment of a human being as provided by ruling 22 (Cal. Adm. Code 1932), Sec. G, of the Calif. SBD.”

For your general information, we note that digests of letters which this office has issued in the past in interpretation of section 6369 and ruling 22 are printed in California Tax Service, volume 3, pages 3532 to 3532.4; Commerce Clearing House, State Tax Reporter, California, volume 3, par. 60-122; Prentice Hall, State and Local Taxes, California, volume 2, par. 21,858. Typical of material reported in these tax services are our rulings that baby powder, lubricating jelly and rubbing alcohol qualify as “medicines” but that distilled water, even when used to prevent digestive problems, does not.

Very truly yours,

Gary J. Jugum
Assistant Tax Counsel

GJJ:ph