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**STATE BOARD OF EQUALIZATION**

916-324-5589

November 30, 1989

X-----

Re: X-----

Dear X-----,

This is in response to your letter of October 24, 1989. You have requested our opinion regarding the correct application of tax to the following products manufactured and sold by your firm.

“Implantable Defibrillator

“The X----- microprocessor-based programmable implantable defibrillator is a device which is implanted in a patient with heart dysfunction for up to seven years. The device monitors the patient’s heart signals and detects abnormal heart rates. Once detected, the device provides a heart pacing function like that of a pacemaker or defibrillation energy if required in order to correct the abnormal heart rhythm.

“Implantable Leads

“The implanted defibrillator is connected to the heart via leads which are also implanted with the device.

“Defibrillator Programmer

“The implanted defibrillator is inoperable without first being programmed by the doctor. This is done with a receiving and transmitting programmer specific to the X----- implantable device, which is sold with the first implantable defibrillator. When sold initially, it is separately billed.

“High Voltage Stimulator

“The X----- is an electronic instrument used during the implantation surgery for the defibrillator device to evaluate the proper pacing and defibrillation setting and therapies to be programmed into the device by the programmer. The X----- may be used in conjunction with the implantation of other devices. The X----- is billed separately.”

Revenue and Taxation Code Section 6369(c) (2) provides that the term “medicines” includes “[b]one screws, bone pins, pacemakers, and other articles ... permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body.” We are of the opinion that both the implantable defibrillator and the implantable leads qualify as exempt medicines under Section 6369(c) (2). As such, tax would not apply to your sale of these items. We are of the opinion that the Defibrillator Programmer and the High Voltage Stimulator do not qualify as exempt medicines because they are not implanted in the human body and are in the nature of medical devices or appliance specifically excluded from the term “medicines” under Section 6369.

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

Very truly yours,

Mary C. Armstrong  
Senior Tax Counsel

MCA:wak  
1707C

STATE OF CALIFORNIA

MINI-MEMO

STD 100-B (REV 9.70)

TO: John L. Waid

LEGAL

Subject: X-----

Date: 12-4-90

**M** Please issue opinion of taxability of "PROSDRBA\* Immunoabsorption Treatment  
**E** Column" per our discussion today.  
**S**  
**S**  
**A**  
**G**  
**E**

**RETURN TO**

SIGNED: Richard W. Gerber

ADDRESS: REFUNDS

**R** Per our 12/31 telecon, item appears to be necessary and integral to operation of  
**E** kidney dialysis machine, since it takes a central place in the dialysis process  
**P** according to sketchy facts supplied by taxpayer. Thus, appears to satisfy the  
**L** standard for "related supplies," resale of which are exempt per §6369.1.  
**Y**

SIGNED: John L. Waid

ADDRESS: Staff Counsel

DATE: 12/31/90