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**STATE BOARD OF EQUALIZATION**

916-445-3237

May 2, 1980

Dear Ms. X-----,

This is in response to your letter of April 17, 1980. Your inquiry concerns the correct application of tax to the following products:

1. Spinal Anesthesia Trays
2. Epidural Trays
3. Arthogram Trays
4. Myelogram Trays
5. Thoracentesis Trays

According to the information enclosed with your letter, the various trays listed above contain items such as needles, tubes, manometer, syringes, bandages, anesthetic (lidocaine) and catheters. While some of these items are medicines and thus exempt from tax, others are considered to be taxable non-medicines.

We have previously determined that when trays containing taxable and non-taxable items are sold for a lump sum price, tax applies to the entire lump sum price of the tray unless the price of the tray is allocated between taxable (items such as syringes, medicine cups, towels, swabs, and bandages) and non-taxable (drugs and exempt containers including drug bottles, sterilization indicators and disposable trays) items.

You have also inquired about the following items:

1. Penrose Drain - pre-cut tubes used to drain fluids from a wound. – TAXABLE (unless utilized post surgically as a result of an artificial opening created in the human body for the elimination of natural waste)
2. Cantor Intestinal Tube - a mercury weighted tube for intestinal intubation - TAXABLE
3. Stomach Tube - a tube for feeding or washing stomach – TAXABLE
4. Feeding Tube - a tube for introducing food into stomach - TAXABLE

5. Naso-gastric Tube - a disposable stomach decompression evacuation tube with an x-ray tip, 2 lumens and a balloon which is inflated and positioned at esophago-gastric junction without tension - TAXABLE (unless utilized post-surgically as a result of an artificial opening created in the human body for elimination of natural waste)
6. Suture Wound Clips - TAXABLE
7. Heel and Elbow Protectors - TAXABLE unless necessary as a result of a prosthetic or orthotic device.
8. Oral Screw - used in conjunction with a mouth gag - TAXABLE
9. Trach Speaking Tube - helps tracheostomy patient to speak EXEMPT (when used in conjunction with tracheostomy tube which is necessary as a result of an artificial opening created in the human body for the elimination of natural waste)

We note that whenever tubes are necessary as a result of surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, tax will not apply to their sale.

In determining the correct application of tax to the tubes listed above which are implanted in the human body, we have assumed that none of these tubes are permanently (i.e. for more than six months) implanted but rather are of a temporary nature.

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

Very truly yours

Mary C. Armstrong  
Staff Counsel

MCA:ba