



**STATE BOARD OF EQUALIZATION**

916-445-8485

April 5, 1988

X-----

Re: X-----

Dear X-----,

This is in response to your letter to the Board's legal unit dated February 16, 1988. You have requested a written opinion concerning whether sales tax is applicable on the sale of the Congleton Neutral Posture Chair.

As we understand the facts, the Congleton Neutral Posture Chair is a patented, posture support system recognized for its therapeutic value in reducing pain and speeding the recovery/return to work of its users. X----- has been charging and remitting sales tax on all purchases of this chair thus far (to clarify a point, you the vendor, pay sales tax and, in turn, you charge the paying consumer sales tax reimbursement).

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers from all retail sales of all tangible personal property in this State (Revenue and Taxation Code section 6051). Likewise, use tax is imposed on the storage, use, or other consumption in California unless otherwise exempted from taxation by statute (Revenue and Taxation Code section 6201). However, use tax is never imposed as a duplicate tax along with sales tax because any use of property in California is exempt from use tax if the gross receipts from the sale of property are included in the measure of the sales tax (Revenue and Taxation Code section 6401).

Revenue and Taxation Code section 6369(a) exempts from taxes the gross receipts from the sale, use, storage, or other consumption in this State of medicines. Subsection (b) of that same code section provides:

“Medicines” as used in this section mean and include any substance or preparation intended for use by external or internal application to the human body and the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as

a substance or preparation intended for such use; provided that “medicines” do not include ... (2) articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, ....

In our view, the Congleton Neutral Posture Chair is an apparatus, contrivance, and/or appliance used for supportive purposes and accordingly is not a “medicine” as defined in Revenue and Taxation Code section 6369. Consequently, sales tax is applicable to your sales of the Congleton Neutral Posture Chair.

I have enclosed Sales and Use Tax Regulation 1591 (Prescription Medicines) which interprets and explains section 6369 for your information. UIf you have any further questions, please feel free to write again.

Very truly yours,

E. L. Sorensen, Jr.  
Senior Tax Counsel

ELS:md  
Enclosure

Bc: San Francisco – Tax Administrator  
Mr. Robert Stipe