

For more information regarding whether the 6.25% rate or the 1% rate of tax applies to catheters, we refer you to the Department's regulation at 86 Ill. Adm. Code 130.310(c) and to letter ST 93-0526. (This is a GIL.)

May 22, 2007

Dear Xxxxx:

This letter is in response to your letter dated June 23, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC hereby respectfully request a written determination by your state pertaining to your state's Sales and Use Tax Laws and Regulations regarding the taxability in the sale/charge to ABC's customers of Catheter Securement Medical Devices.

ABC charge[s] customers (distributor, hospital, medical center, medical practitioner) for their purchases of the Catheter Securement Devices. These non-reusable Catheter Securement Devices secure and anchor all types of catheters and tubes, in access to the human body, to restrict catheter movement, prevent medical complications (such as infiltration, phlebitis, dislodgment, migration and extravasations), improve catheter dwelling times, reduce unscheduled catheter starts, and enhance healthcare worker safety. Types of catheters and tubes that these Catheter Securement Devices can secure are Peripheral IV Catheters, Foley and Other Urinary Catheters, Nasogastric Tubes, Feeding Tubes, Epidural Catheters, Anesthetic Catheters, Radial and Femoral Arterial Catheters, Central Venous Catheters, Corvis-type Sheath Introducers and Arrow Mac and Edwards AVA Catheters, Hemodialysis Catheters, Chest Tubes and Other Large Medical Tubes, PICC Extended Dwelling Catheters, Percutaneous Drainage Catheters, Neonatal (Nursery) and Pediatric Applications. These Catheters Securement Devices consist of three elements: (1) first element is an alcohol-based acrylic skin prep pad for enhanced pad adhesion and skin protection, (2) second element is an anchor pad that consists of four layers (1st layer on top is an invisible

release coating which allows the option of covering and easily uncovering the pad; 2nd layer is a cushion that insulates the patient's skin; 3rd layer is a specially formulated acrylic adhesive; 4th layer on bottom is cushion-cut, band-aid style backing which maintains barrier protection), (3) third element is a precision molded retainer to tightly grasp the intended catheter or tube.

Please send a determination for the sales taxability of ABC's sale/charge of this medical product, Catheter Securement Devices. Your expediency in responding will be greatly appreciated.

Please send your written determination to: ADDRESS

DEPARTMENT'S RESPONSE

For your information, we refer you to the Department's regulation at 86 Ill. Adm. Code Section 130.310, which are the regulations governing Food, Drugs, Medicines and Medical Appliances. Those products that qualify as food, drugs, medicines and medical appliances are taxed at the low rate of 1%. Those that do not qualify for the low rate are taxed at the rate of 6.25% plus applicable local taxes.

You will note that a medicine or drug is "any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities." A medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Diagnostic equipment is generally not deemed to be a medical appliance. Some supplies qualify for the low rate, while others do not. Insulin, urine testing materials, syringes, and needles used in treating diabetes in human beings qualify for the low rate.

We do not have enough information to determine whether the catheter equipment you are asking about qualifies for the low rate of tax. However, the Department has ruled that some catheters can qualify as medical appliances.

Catheters that directly substitute for a malfunctioning part of the body, that is, catheters that introduce fluids into the body (for instance, catheters used to pump blood back into the circulatory system in open heart surgery or in hemodialysis, or enteral catheters) or remove fluids from the body (urological or drainage catheters, or neurological catheters relieving intracranial pressure in hydrocephalics) are subject to the low rate of tax.

Catheters that are used diagnostically (e.g., interventional angioplastic catheters) or as medical tools (e.g., as part of a drug delivery system) do not qualify for the low rate and are fully taxable. For more information, we refer you to the Department's letter ST 93-0526.

Please also note that sterile dressings, bandages and gauze qualify for the low rate of tax. Supplies such as non-sterile cotton swabs, tissues and towelettes do not qualify for the low rate of tax.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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