

Medicines and medical appliances are not taxed at the normal State rate of 6.25%. These items are taxed at a lower State rate of 1%. See 86 Ill. Adm. Code 130.310(c). (This is a GIL).

December 31, 2007

Dear Xxxxx:

This letter is in response to your letter received in this office on July 12, 2007, 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.tax.illinois.gov](http://www.tax.illinois.gov) 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:

I am requesting a ruling for two of ABC products to determine if they are subject to the 1 or 6.25 percent Illinois use tax rate. ABC is a medical device company (located in STATE) that is focused on bringing solutions to interventional cardiologists and interventional radiologists. The products in question are the D-Stat Flowable Hemostat Bandage and our D-Stat Dry Hemostatic Bandage.

The D-Stat Flowable hemostat is a flowable hemostat composed of thrombin, collagen, and diluent. Both the thrombin and collagen are packaged dry and must be reconstituted with the diluent prior to use. Once reconstituted, D-Stat Flowable is delivered topically from the syringe to the target bleeding site using the provided applicator tips. It is indicated for the control of surface bleeding from vascular access sites and percutaneous catheters or tubes. It is also used as an adjunct treatment in sealing residual oozing of tissue tracts of femoral access sites that have been previously closed by suture/collagen based hemostatic devices. Hemostasis of the bleeding site is achieved through the physiological coagulation-inducing properties of D-Stat. This is a disposable, single use product. Federal law restricts this device to sale by or on the order of a physician. More information about this product can be found at <http://www.vascularsolutions.com/products/dstat-flowable>.

The D-Stat Dry Hemostatic Bandage is a dry hemostatic gauze pad with an adhesive [sic] bandage that quickly clots blood. It is intended to be used in a broad variety of

topical bleeding situations to stop the bleeding quickly in a single, no-mixing, open-and-apply configuration. D-Stat Dry consists of two components — a gauze pad that consists of primarily thrombin and D-Stat lyophilized (freeze-dried) into the pad, and a custom-sized adhesive bandage to go over the pad. This is a disposable, single use product. Federal law restricts this device to sale by or on the order of a physician. More information about this product can be found at <http://www.vascularsolutions.com/products/dstat-dry>.

Please contact me if you have any additional questions.

Thank you for your time in helping us determine the appropriate use tax rate,

## **DEPARTMENT'S RESPONSE:**

Under the Use Tax Act, a tax is imposed upon the privilege of using in the State of Illinois tangible personal property purchased at retail from a retailer. 35 ILCS 105/3. The Use Tax Act imposes a tax of 6.25% on either the selling price or the fair market value, if any, of the tangible personal property, unless otherwise provided by the Act. With respect to prescription and nonprescription medicines, drugs, and medical appliances for human use, the tax is imposed at the rate of 1%. 35 ILCS 105/3-10.

The Retailers' Occupation Tax also imposes a rate of 1% on prescription and nonprescription medicines, drugs and medical appliances for human uses. 35 ILCS 120/2-10. The regulation implementing the 1% rate on foods, drugs, medicines and medical appliances under the Retailers' Occupation Tax provides a guide for determining the applicability of the 1% rate under the Use Tax Act. See 83 Ill. Adm. Code 130.310.

A medicine or drug is any pill, powder, potion, salve, or other preparation for human use that purports on the label to have medicinal qualities. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim. See Section 130.310 for examples of medicinal claims.

A medical appliance is an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the human body. Included in the exemption as medical appliances are such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines (including the dialyzer). Corrective medical appliances such as hearing aids, eyeglasses and contact lenses qualify for exemption.

Even though supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues, towelettes, and cosmetics such as lipsticks, perfume and hair tonics do not qualify for the reduced rate, sterile dressings, bandages and gauze do qualify for the reduced rate. See 86 Ill. Adm. Code 130.310(c)(3). We believe the D-Stat Flowable hemostat and the D-Stat Dry Hemostatic Bandage may qualify for the reduced rate.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) 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,

Richard S. Wolters  
Associate Counsel

RSW:msk