ST 08-0145-GIL 10/16/2008 FOOD, DRUGS & MEDICAL APPLIANCES

This letter responds to questions about the rate of tax for blood glucose test strips and lancets. See 86 Ill. Admin. Code 130.310. (This is a GIL.)

October 16, 2008

Dear Xxxxx:

This letter is in response to your letter dated April 25, 2008, 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 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:

> Would you please send me a letter stating the tax (1%) that is to be charged for medical supplies, including specifically that diabetic supplies of blood glucose test strips, lancets, and lancing devices are to be charged at the tax rate of 1%.
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> For several years I have been purchasing these diabetic test supplies at local drug stores and have paid 1% tax. On March 26, 2008, when I went to PHARMACY (CITY), they wanted to charge me 6 ½% tax. I told them this was incorrect – that I had always paid 1%. I was told they had always charged 6 ½%, but they would check with the Champaign Office. I left and returned later but they had no answer yet. I went back later in the day. The Champaign Office told them if you didn't put the item in your mouth, you got charged 6 ½%. I again told them they were wrong. Because of the inconvenience caused me, I was not charged for a box of 100 lancets, but I paid the 6 ½% tax ($2.37) on the price of $36.49 for the box of 100 blood glucose test strips, as evidenced by the enclosed photocopy of my receipt.
>
> Any help you can give me will be appreciated. Anything you can do to help their other customers would be appreciated by them I'm sure.

DEPARTMENT'S RESPONSE:

Medicines and medical appliances are not taxed at the State rate of 6.25%. These items are taxed at a lower rate of 1%. See 86 Ill. Adm. Code 130.310. Items subject to this lower tax rate include prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

A medicine or drug is defined as 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 defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See part (c) of Section 130.310. Medical devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate. In general, in order to qualify as a medical appliance, the product must directly substitute for a malfunctioning part of the body.

Generally, home glucose monitors, test strips and related supplies used to treat human diabetes qualify for the 1% State rate of tax. See subsection (d) of 86 Ill. Adm. Code 130.310.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. For your information, though, we have forwarded the information you provided to our Audit Division.

Very truly yours,

Debra M. Boggess
Associate Counsel

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