

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 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

January 5, 2009

Dear Xxxxx:

This letter is in response to your letter dated November 23, 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:

CORPORATION would like a Letter Ruling stating whether or not the following items are exempt from Sales/Use tax within your state.

CORPORATION manufactures and sells custom disposable instruments for patients undergoing joint replacement surgeries. These instruments are not commercial off-the-shelf (COTS) products, but are made for each patient using their own anatomy and can not be re-used on another patient. All of our products are sold directly to hospitals, surgery centers, and distributors.

Please issue a ruling stating whether or not these items are taxable. If deemed tax exempt please state if zero return filings are required.

For more information about our products you can visit our website or call our accounting manager.

DEPARTMENT'S RESPONSE

For useful information regarding the taxation of food, drugs, medicines and medical appliances, I refer you to the Department's regulation at 86 Ill. Adm. Code 130.310. Products that

qualify as medicines, drugs, or medical appliances under the regulation are taxed at the reduced rate of 1% plus applicable local taxes. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes.

The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the human body." Please note that 86 Ill. Adm. Code 130.310(c)(2) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. Examples of items that qualify for the reduced rate for 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). As a general proposition, diagnostic, treatment and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2). In addition, surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the human body do not qualify as exempt medical appliances.

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.

Very truly yours,

Debra M. Boggess
Associate Counsel

DMB:msk