

A medical appliance is defined as an item which 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.)

May 14, 2010

Dear Xxxxx:

This letter is in response to your letter dated March 19, 2010, 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:

COMPANY is requesting a written opinion on the taxability of several medical products and equipment. I have listed the equipment below with a description of the product.

- **Tracheotomy tubing and care supplies** - endotracheal tube is a catheter inserted in the trachea to maintain a patient airway.
- **IV equipment** (needle, catheter(tubing), fluid bags, pole/stand) – intravenous infusion administration of fluids into a vein by means of a steel needle or plastic catheter, used most often to maintain fluid and electrolyte balance, or to correct fluid volume deficits. Many medications are administered by this route.
- **Insulin Pumps** – a device consisting of a syringe filled with a predetermined amount of short-acting insulin, a plastic cannula and a needle, and a pump that periodically delivers the desired amount of insulin.
- **Tens** (transcutaneous electrical nerve stimulation (TENS) transcutaneous neural stimulation (TNS) – use of a battery-powered device to relieve acute or chronic pain. Electrodes attached to the skin transmit electrical impulses that produce a mild tingling, tapping, or massaging sensation. The effectiveness of this method

is thought to depend on its interruption of pain impulses from the periphery to the central nervous system, increased production of endorphins, and improved blood supply to the affected part; an increased blood supply encourages healing and helps reduce muscle spasm.

- **Respirator masks** – Air purifying mask that is reusable.
- **CPAP Machines and Masks** – (continuous positive airway pressure(CPAP) a method of positive pressure ventilation used with patients who are breathing spontaneously, done to keep the alveoli open at the end of exhalation and thus increase oxygenation and reduce the work of breathing.
- **Yankauer suction [sic] tip and tubing** – a tip attached to a suction tube for bedside suctioning of an artificial airway.
- **Restraints** – the forcible confinement or control of a person. Specifically, restraint to a bed, wheelchair or chair.

Thank you for your time and assistance.

DEPARTMENT'S RESPONSE:

Although we cannot give you a specific answer in the form of a General Information Letter, we hope you find the following helpful. 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 which can be accessed on the Department's website. In addition, you may want to review letters that the Department has previously issued regarding medical appliances which can be found on the Department's website.

All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided. Medicines and medical appliances are not taxed at the normal rate of 6.25% plus applicable local taxes. These items are taxed at a reduced rate of 1% plus applicable local taxes. 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 materials, syringes, and needles used by diabetics, for human use.

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 body." "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. See 86 Ill. Adm. Code 130.310(c)(2). Please note that not all items prescribed by or used by physicians or other licensed health care professionals qualify for the low rate.

Medical appliances that qualify for the reduced rate include such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines. Other examples of items that qualify for the reduced rate are corrective medical appliances such as hearing aids, eyeglasses and contact lenses. 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).

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

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