

A medical appliance is an item that directly substitutes for a malfunctioning part of the human body. Products that qualify as medical appliances are taxed at a lower State tax rate of 1% plus any applicable local taxes. 35 ILCS 120/2-10; 35 ILCS 120/14; 86 Ill. Adm. Code 130.311. (This is a GIL).

March 5, 2025

NAME
COMPANY
EMAIL

Dear NAME:

This letter is in response to your email dated January 13, 2025, in which you requested 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 <https://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 just called in and was advised to email your team. We are authorized dealers for Hyperbaric Oxygen Chambers and we do require a doctor’s note/prescription for all HBOT sales. Since there is a doctor’s note needed for this medical device would these sales qualify for the reduced tax rate of 1.75%? Or what tax rate for Illinois would I charge? Please advise, so I can adjust our taxes accordingly for you.

DEPARTMENT’S RESPONSE:

Due to the necessity for very specific facts regarding the uses and functions of hyperbaric oxygen chambers, your questions cannot be addressed in the context of a General Information Letter. However, this letter will provide you with basic guidelines that may be used to determine the taxability of the hyperbaric oxygen chambers under Illinois law.

Medical appliances are subject to 1% tax under the Retailers' Occupation Tax Act. 35 ILCS 120/2-10. Tangible personal property that does not qualify for the low rate of tax is taxed at the rate of 6.25% of the gross receipts from sales. 35 ILCS 120/2-10. This tax is in addition to any applicable local taxes. 35 ILCS 120/14. Section 130.311 pertaining to Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products provides as follows:

- e) Medical Appliances: A medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body.
 - 1) For purposes of this Section, an item that becomes part of the human body by substituting for any part of the body that is lost or diminished because of congenital defects, trauma, infection, tumors, or disease is considered a medical appliance. Examples of medical appliances that will qualify the product for the low rate of tax include, but are not limited to:
 - A) breast implants that restore breasts after removal due to cancer or for preventative, medical reasons;
 - B) heart pacemakers;
 - C) artificial limbs;
 - D) dental prosthetics;
 - E) crutches and orthopedic braces;
 - F) dialysis machines (including the dialyzer);
 - G) wheelchairs;
 - H) mastectomy forms and bras;
 - I) mobility scooters; and
 - J) sleep apnea devices.

86 Ill. Adm. Code 130.311(e)(1).

Please note that "other medical tools, devices, and equipment such as x-ray machines, laboratory equipment, and 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 medical appliances." 86 Ill. Adm. Code 130.311(e)(5). The determination of whether an item qualifies as a medical appliance is very fact dependent. In this instance, the inquirer did not provide any facts, descriptions, or details regarding functions and uses of hyperbaric oxygen chambers.

COMPANY

Page 3

March 5, 2025

Local governments generally do not have authority to impose tax on the sale of tangible personal property taxed at the 1% rate under the Retailers' Occupation Tax Act such as medical appliances. See e.g., 65 ILCS 5/8-11-1 (Home Rule Municipal Retailers' Occupation Tax Act). However, two local taxing jurisdictions, the Regional Transportation Authority ("RTA") and the Metro East Mass Transit District ("MED"), do have the authority to impose additional tax on 1% rate items. See 70 ILCS 3615/4.03(e); 70 ILCS 3610/5.01(b).

The RTA tax rate in Cook County on sales of tangible personal property taxed at the 1% rate under the Retailers' Occupation Tax Act is 1.25% and 1% for taxable sales of other tangible personal property taxed at the 6.25% rate. The RTA tax rate in DuPage, Kane, Lake, McHenry, and Will counties is 0.75% on all taxable sales of tangible personal property. 70 ILCS 3615/4.03(e). The MED tax rate is 0.75% on all tangible personal property sold in MED locations in St. Clair County and 0.25% on all tangible personal property sold in MED locations in Madison County. 70 ILCS 3610/5.01(b). For the sake of differentiating these taxes from local taxes imposed by other jurisdictions, we will refer to them in this letter as "transportation district taxes".

If the items described in this letter are taxed at the rate of medical appliances, then they are subject to the low rate of tax (1% State tax), plus any applicable transportation district taxes. If this is not the case, the items in this letter are subject to the high rate of tax (6.25% State tax), plus any local tax (e.g., Home Rule Municipal Retailers' Occupation Tax), including transportation district taxes, at the general merchandise rate.

I hope this information is helpful. If you require additional information, please visit our website at <https://tax.illinois.gov/> or contact the Department's Taxpayer Information Division at 800-732-8866.

Very truly yours,

Katarzyna Kowalska
Associate Counsel

KAK:sce