



STATE BOARD OF EQUALIZATION

February 21, 1964

Gentlemen:

This is in reply to your letter of February 13 requesting our views on two problems which were discussed during our recent meeting in Pasadena.

We have carefully reviewed the question of the validity of the distinction between so-called dissolvable sutures and sutures which are ultimately withdrawn from the body. As you point out, when the initial draft of Ruling 22 was prepared, following the 1963 amendment to Section 6369, the following statement appeared therein:

"The following items are specifically excluded by section 6369 from the term medicines:

"(2) Articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof. This includes such items as sutures, bone pins, or supports, and other similar items even though inserted into and remaining in the body."

Before adoption, the last sentence was eliminated. The sentence, however, related to sutures "even though inserted into and remaining in the body". The elimination of this sentence is indicative that the Board was considering only sutures that remain in the body which had been previously considered exempt, and was not considering that the elimination of this sentence would exempt for the first time those sutures which are ultimately withdrawn from the body. Therefore, it appears to us that the Board by the action it took confirmed its previous position that removable sutures should not be considered as falling within the exempt category.

It appears to us that in view of the specific exclusion from the exempt category of the articles described in the regulation that any suture, internal or external, might very properly be considered excluded from the exemption. The Board by its decision not to change the previous ruling cannot, in our opinion, be said to have extended the exemption to include external or removable sutures. For these reasons we are unable to recommend to the Board that your request for eliminating the distinction between the two types of sutures be granted.

Concerning your second question, we believe that the taxability of a hospital's charges to insurance companies for a summary of the medical care and treatment of a patient depends upon whether the hospital people actually use their technical or professional skill in preparing these reports, such as making decisions on what should be included in the reports, or in evaluating the reports or otherwise exercising judgment in the preparation of the reports.

If the hospital's people do perform these services, we believe the charges in question are not taxable. On the other hand, if the operation simply amounts to a copying or duplicating of certain desired reports, the transaction would, in our opinion, be a sale of tangible personal property to which the tax would apply.

Very truly yours,

E. H. Stetson
Tax Counsel

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