



STATE BOARD OF EQUALIZATION

916-445-2488

June 5, 1978

X-----

Dear Ms. X-----,

This is in reply to your letter of May 16, 1978.

You have inquired as to whether E-Z EM #316 top filled Barium Enema Bags are exempt from tax as "medicines" under Revenue and Taxation Code Section 6369. The Barium Enema Bags consist of plastic bags, pre-filled with Sol-O-Paque Barium with tubing and a special tip. They are administered to the patient in order that the tract being studied will show up in the x-rays.

You are aware of the fact that Barium when sold alone and administered internally to patients comes with the definition of "medicines" under Section 6369(b). You wish to know whether tax applies when you buy the pre-filled Barium bags. You note you pay one price for the entire package and the manufacturer does not break down the price.

Although, in general, administration equipment such as the bags, tubing and tips you describe does not qualify as a "medicine" under Section 6369, we are of the opinion that when "medicines" such as barium enemas are sold as units and include disposable "non-medicine" items, that the entire unit is considered to be a "medicine" as long as the medical portion of the unit is the major component and the "non-medicine" portions are insignificant and incidental to the "medical" portion. Accordingly, tax does not apply to the sale of E-Z EM #316 top filled Barium Enema Bags.

If you have further questions concerning this matter, please write to this office.

Very truly yours,

Mary C. Armstrong
Legal Counsel

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