

**STATE BOARD OF EQUALIZATION**

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August 26, 1991

Mr. J--- -. T---
Acting Chief, Rate Development Branch
[XYZ]
XXX/XXX --- Street
---, California XXXXX-XXXX

RE: Taxability of Cleansing Agents
SR -- XX-XXXXXX

Dear Mr. T---:

I am responding to your letter to me of July 18, 1991, in which you requested advice as to the applicability of the Sales and Use Tax Law to sales of products used to clean stomas and human feces from skin or to prevent skin sores and rashes. You have requested this information in order to determine if Medi-Cal should add and reimburse sales tax to claims received from providers for these products.

OPINION

Section 6369 interpreted and implemented by Title 28, California Code of Regulations, regulation 1591 provides that sales of medicines, when prescribed and sold or furnished under certain conditions for the treatment of a human being, are exempt from sales or use tax. (Reg. 1591(a). Subdivision (b)(1) of Regulation 1591 defines "medicines" to "mean and include any substances or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and which is commonly recognized as a substance or preparation intended for such use."

We have consistently held that products which cleanse the skin, treat skin disorders, or prevent adverse skin conditions are "medicines" within the meaning of the regulation. Additionally, the court in Purdue Frederick Co. v. St. Bd. of Equalization (1990) 218 Cal.App.3d 1021, 267 Cal. Rptr. 482, held that the exemption also applied to cleansers when hospital personnel used them to wash their hands prior to treating patients. We thus conclude that the products you mention are "medicines" the sales of which are exempt from tax.

For your information, I have enclosed a copy of Board of Equalization Pamphlet No. 45, "Hospitals," which includes a copy of Regulation 1591, and, on page 18, examples of items considered to be exempt medicines. I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Tax Counsel

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Enclosure: Pamphlet No. 45