

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 322-3684

October 25, 1985

Mr. T--- M---, Manager  
J—D--- Co.  
M--- & H--- H--- N---  
XXXX --- Road, Suite X  
--- ---, CA XXXXX-XXXX

SR -- XX-XXXXXX

Dear Mr. M---:

This is in reply to your letter of July 15, 1985. You ask whether an electric three wheeled scooter qualifies as a tax exempt wheelchair.

You note in your letter that you are a durable medical equipment company supplying medical and homecare health needs to the public. From your letter and the attached brochures we understand that you sell an electric three wheeled scooter that could be utilized as an electric wheelchair. The scooter appears to be similar in both design and function to a conventional four wheel electric wheelchair except that the scooter is smaller, more compact, and has only three wheels. You indicate that Medicare recognizes this device as a covered item if medically necessary.

California Sales and Use Tax Law imposes a tax on the sale or use of tangible personal property in this state, unless the sale or use is otherwise exempt from taxation. Section 6369.2 of the Revenue and Taxation Code exempts from taxation the sale, use or other consumption of wheelchairs, crutches, canes, quad canes, walkers, and replacement parts for such devices, when sold to an individual for the personal use of that individual as directed by a physician.

Sales and Use Tax Regulation 1591(k) [now Regulation 1591.2] which interprets and applies section 6369.2 provides that wheelchairs are exempt from tax when they are sold or leased to an individual for the personal use of the individual as directed by a physician.

We have previously decided that electric three wheel devices such as the scooter described in your letter and brochures qualify for exemption under section 6369.2 and regulation 1591(k) [now regulation 1591.2]. Therefore, tax does not apply to the sale or rental of electric three wheel scooters to an individual for the personal use of that individual as directed by a physician. In order to ensure that the sale or rental of electric three wheel scooters meets the above criteria for exempt status, we suggest that you obtain a written statement from either the customer or the physician that the scooter is for the personal use of the customer as directed by a physician. We further suggest that this written statement be retained for your records for future audit purposes.

We have enclosed a copy of regulation 1591 (Prescription Medicines) for your reference. If you have any further questions, please do not hesitate to contact us.

Very truly yours,

Robert J. Stipe  
Tax Counsel

RJS:sr

Enc.