



STATE BOARD OF EQUALIZATION

916-322-6033

April 7, 1976

X-----

Dear X-----:

Your letter dated March 30, 1976 and addressed to our Van Nuys office has been referred to this office for reply.

You inquire whether crytherapeutic agents such as liquid nitrogen and carbon dioxide are considered to be medicines and exempt from sales and use tax when used by dermatological practitioners in the treatment of cutaneous skin lesions such as skin malignancies and warts.

Sales and Use Tax Regulation 1591(a)(4) provides that tax does not apply to sales of medicines for the treatment of a human being when the medicines are sold to a licensed physician for such treatment. Regulation 1591(b)(1) defines "medicine" to include any substance intended for use by external or internal application to the human body in the cure, mitigation, or treatment of disease and which is commonly recognized as a substance intended for such use.

It is our opinion that sales of liquid nitrogen and carbon dioxide to licensed physicians for the treatment of cutaneous skin lesions are exempt from tax.

The liquid nitrogen and carbon dioxide are used by external application to the human body in the cure, mitigation, or treatment of disease and are recognized as substances intended for such use. They are therefore medicines within the definition of the regulation. Sale of the substances to a physician for treatment of a patient is therefore not subject to tax.

Regulation 1591(f) states that tax does not apply to a specific charge made by a physician to his patients for medicine furnished for treatment of the patient. Thus, if you make a separate charge to your patients for the liquid nitrogen or carbon dioxide, no tax will apply to that charge.

Very truly yours,

H. L. Cohen
Tax Counsel

HLC:ja