



STATE BOARD OF EQUALIZATION

August 26, 1966

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Gentlemen:

This letter is in response to your inquiry directed to our Hollywood office concerning the application of ruling 22 to the sales of some 1,550 individual doses of anti-measles vaccine.

It is our understanding the Fallbrook Square Merchants Association purchased the individual injection doses of an anti-measles vaccine to which the supplier, Pitman-Moore, added state sales tax in the amount of \$88.66. The medication was administered by volunteer doctors and nurses. Each individual receiving the vaccine paid only \$1.34, the estimated cost of each dosage, and no other charge was made. Also, each individual receiving the vaccine was given a card by the administering doctor which contained the name of the doctor administering the shot, along with a notice to contact him if any complications developed. The vaccine was sold in single dosage containers.

Ruling 22(a)(2), copy enclosed, provides that,

“Tax does not apply to sales of medicines for the treatment of a human being which medicines are furnished by a licensed physician and surgeon or podiatrist to his own patient for treatment of the patient.”

“Medicines” mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease which is commonly recognized as a substance or preparation intended for such use.

Since each individual who received an injection also received a card containing the name and address of the doctor administering the injection, whom they were to call in case of complications, we believe the doctor-patient relationship was established. Also, being that the vaccine is used in the prevention of disease (measles), we believe it falls within the definition of a medicine. Accordingly, the anti-measles vaccine is exempt from taxation.

In addition, ruling 49(a)(3), copy enclosed, provides that:

“Tax does not apply to sales of containers when sold with the contents, if the sales price of the contents is not required to be included in the measure of the sales tax or the use tax.”

Since the container contained the anti-measles vaccine which was exempt from tax, the container itself is exempt from tax.

If you have any further questions concerning the foregoing, please feel free to contact us.

Very truly yours,

E. H. Stetson
Tax Counsel

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Enclosures