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STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 324-5589

September 11, 1990

REDACTED TEXT

Dear Mr. REDACTED TEXT:

This is in response to your letter of July 30, 1990 in which you request our opinion regarding the correct application of tax to the Model 6500 temporary myocardial pacing leads.

As we understand it, the Model 6500 is a temporary lead (referred to in house as a disposable heart wire) which is implanted during heart surgery and stays implanted following surgery in the event of complications during recovery. Once satisfied the fear of complications is dissipated the physician will remove the lead.

You previously received a letter from Mr. George Alvarado, Jr. stating that the model 6500 temporary lead did not qualify as an exempt prescription medicine, however, it was not clear to Mr. Alvarado that the temporary leads were used post-surgically.

Revenue and Taxation Code section 6369(c)(4) provides that prosthetic devices designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body are included within the definition of "medicines." We have previously determined that a temporary lead which is attached to a temporary pacemaker which is fully worn on or in the body of the user qualifies as a prosthetic device under section 6369(c)(4). The temporary lead would not qualify if it were attached to a bedside pacemaker or pacing machine. From the information you submitted in your letter, we are unable to determine what kind of pacing machine is used.

A second requirement is that the lead be utilized in a post-surgical setting. We are of the opinion that if the Model 6500 temporary myocardial lead is attached to a pacemaker which is fully worn on the body of the patient and is implanted during heart surgery and stays implanted following surgery, it would qualify as an exempt prescription medicine under Revenue and Taxation Code section 6369(c)(4). As such, your sale of the Model 6500 for use in this manner would be exempt from tax. The Model 6500 would not qualify as an exempt prescription medicine if it is used only during a surgical procedure or it is used with a pacemaker or pacing machine which is not fully worn on the patient.

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

Very truly yours,

Mary C. Armstrong  
Senior Tax Counsel

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