

**M e m o r a n d u m****425.0885**

To: D. J. Hennessy

Date: April 11, 1983

From: Mary C. Armstrong

Subject: Transcutaneous Electrical Nerve Stimulators  
Annotation 425.0885

As a result of a decision by the Board it was determined that Transcutaneous Electrical Nerve Stimulators are prosthetic devices within the meaning of Revenue and Taxation Code section 6369(c)(4). In the Current Legal Digest dated March 21, 1983, this decision was noted and Annotation 425.0885 was revised to read:

“Transcutaneous nerve stimulators are ‘medicines’ as that term is used in Section 6369 and tax does not apply to their sale.”

Under Section 6369(c)(4) prosthetic devices include only those devices “designed to be worn on or in the person of the user...” It has been brought to our attention that there are some types of transcutaneous electrical nerve stimulators which are not fully worn on the body of the user. (See attached newspaper article featuring the Alpha-Stim 2000 which is the size of a typewriter). Such devices cannot, therefore, be considered prosthetic devices as that term is used in section 6369(c)(4). We would therefore recommend that Annotation 425.0885 be revised as follows:

“Transcutaneous electrical nerve stimulators, which are fully worn on the body of the user, are prosthetic devices as that term is used in section 6369(c)(4), and tax does not apply to their sale; however transcutaneous electrical nerve stimulators which are not fully worn on the body of the user do not qualify as prosthetic devices, and tax applies to their sale.”

MCA:ba

cc: Audit Evaluation and Planning (EF)