



STATE BOARD OF EQUALIZATION

916-445-3237

October 16, 1979

Dear X-----,

This is in response to your letter of September 17, 1979. Your inquiry concerned the correct application of tax to certain pieces of medical equipment purchased by X-----.

Specifically, X----- purchases wheelchairs, crutches, canes, quad canes and walkers. This equipment is rented for the personal use of individuals with payment made on the individual's behalf by Medicare and X-----.

You wish to know whether your purchases of wheelchairs, crutches, canes, quad canes and walkers in this manner are exempt from tax pursuant to Revenue and Taxation Code Section 6369.2 and Sales and Use Tax Regulation 1591.

Regulation and Taxation Code Section 6369.2 provides that:

“There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of wheelchairs, crutches, canes, quad canes, and walkers, and replacement parts for such devices, when sold to an individual for the personal use of that individual as directed by a physician.”

We will assume, for purposes of analysis, that when X----- orders the equipment from the vendor, it is ordered for general stores without an individual patient in mind. At some later date, an individual patient requires the equipment and X----- is reimbursed for the equipment by Medicare. It is our opinion that when X----- purchases the medical equipment it can be considered to have purchased the equipment for resale. For those pieces of equipment which are resold to patients covered by Medicare, we will consider that when X----- bills Medicare for the items the sale is a sale to the United States Government which is exempt from tax regardless of whether the items are considered exempt under Revenue and Taxation Code Section 6369.2. We note that only items billed under Part A of Medicare are considered exempt sales to the United States Government. Items billed under Part B are treated like any other sales.

If the patients are not covered by Medicare, tax will not apply to those items covered under Revenue and Taxation Code Section 6369.2 which are in fact resold to patients. We will consider that the items have been resold to patients if a separate charge for the items is made to the patients.

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

Very truly yours,

Mary C. Armstrong
Staff Counsel

MCA:ba

Bc: Oakland – District Administrator