



STATE BOARD OF EQUALIZATION

916-445-3237

July 14, 1981

Dear X-----,

This is in reply to your letter of June 16, 1981 and your follow-up letter of July 9, 1981.

You have requested our opinion as to the correct application of tax to several items prescribed by your clinic. You would also like to know the proper procedure to follow when purchasing exempt medicines from various vendors. You are uncertain whether or not to sign a "tax exempt and resale form" since your organization does not recall the items you purchase.

Before answering your specific question we will make some general comments concerning the correct application of tax to the type of medical equipment with which your organization is concerned. First, as a general rule, tax applies to the sale of durable medical equipment. An exception to this rule is found in Revenue and Taxation Code Section 6369 which provides that certain orthotic and prosthetic devices qualify as exempt "medicines." Another exception is found in Revenue and Taxation Code section 6369.2 which provides that tax does not apply to sales of "wheelchairs, crutches, canes, quad canes and walkers and replacement parts for such devices." Effective January 1, 1978, section 6369.4 was added to the Revenue and Taxation Code. That section provides that tax does not apply to the sale, storage, use or other consumption in this state of items and materials, when used to modify a vehicle for physically handicapped persons, which are necessary to enable the vehicle to be used to transport a physically handicapped person or persons. Tax does not apply whether the property is installed by the retailer or is sold for installation by other persons. The exemption does not extend to tools and supplies used in modifying the vehicle and not incorporated into, attached to, or installed on the vehicle. This section has been interpreted to mean that:

- (1) The term, "physically handicapped" persons, as used in this section, includes disabled persons described in Vehicle Code Section 22511.5 as qualified for special parking privileges.
- (2) The term "vehicle," as used in this section, includes all devices which qualify under Vehicle Code Section 670 as "vehicles" including but not limited to automobiles, vans, trucks, mobilehomes and trailercoaches.

- (3) “Vehicles” qualifying under this section mean and include:
- (A) Vehicles which are owned and operated by physically handicapped persons.
 - (B) Vehicles which are used in the public or private transport of physically handicapped persons and which would otherwise qualify for a distinguishing license plate pursuant to Vehicle Code Section 22511.5 if the vehicle were registered to the physically handicapped person or persons.

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The items you questioned in your letter and our opinion as to the correct application of tax to each follows:

1. Repairs to wheelchairs – Repair charges for parts and/or labor to wheelchairs are exempt
2. Grab bars – are not exempt from tax unless part of a modification to a vehicle used to transport physically handicapped persons.
3. Batteries for electric wheelchairs – exempt
4. Bath benches – taxable
5. Shower attachments – taxable
6. Belts for wheelchairs – exempt
7. Hospital beds and mattress covers – taxable
8. Cushions for wheelchairs – exempt
9. Battery chargers – taxable
10. Lap boards – would be exempt from tax if they are actually attached to the wheel chair and are a part of the wheelchair itself.
11. Lap trays – would be exempt from tax if they are actually attached to the wheelchair and are a part of the wheelchair itself.
12. Van Ramps – are not exempt from tax unless part of a modification to a vehicle used to transport physically handicapped persons.

13. Various mechanical devices to aid in eating and writing are not exempt from tax unless they are actually attached to the wheelchair itself.

When your organization purchases an item which is exempt from tax it should give the vendor an exemption certificate as provided in Sales and Use Tax regulation 1667. Although there is no specific form for an exemption certificate, the certification must be in writing and include the date; the signature of the purchaser; the purchaser's agent or employee; the name and address of the purchaser; the number of the purchaser's seller's permit; or if the purchaser is not required to hold a seller's permit a notation to that effect and the reason; a description of the property purchased under the certificate; and a statement of the manner in which or the purpose for which the property will be used so as to make the sales tax inapplicable to the sale.

Frequently vendors will have standard pre-printed forms available for purchasers to complete which are entitled "Resale/Exemption" certificates. You may use such forms in lieu of preparing an original exemption certificate.

We are enclosing a copy of Sales and Use Tax Regulation 1591, "prescription Medicines" which further lists various items which are exempt from tax under Revenue and Taxation Code sections 6369, 6369.2 and 6369.4. If you have further questions concerning this matter, please write this office again.

Very truly yours,

Mary C. Armstrong
Staff Counsel

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