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LEGAL DIVISION - MIC: 82
 450 N STREET, SACRAMENTO, CALIFORNIA
 PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
 TELEPHONE (916) 327-2291
 FAX (916) 323-3387

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October 18, 1995

X-----

Re: X-----
 Trocar Catheters
 Urinary Specimen Bags

Dear X-----,

I am responding to your letter to Taxpayers' Rights Advocate Jennifer Willis dated June 21, 1995, following up on your recent telephone conversation with her regarding these items. While you discussed our position regarding trocar catheters in general terms and did not refer to a particular communication, you attached to your letter a copy of my memorandum dated April 3, 1995 to Mr. Robert Roos, X----- District Auditing, regarding sales of trocar catheters and other subjects not applicable here. You also attached a copy of Senior Staff Counsel Mary C. Armstrong's letter to you dated October 2, 1989, in which various questions regarding the taxability of sales of catheters were discussed and attached to which was a list of catheters with their sales listed as either taxable or exempt.

OPINION

You aver that our opinion regarding the application of tax to sales of trocar catheters and pediatric urinary specimen bags as expressed in our recent letters is opposed to those reached by Mrs. Armstrong. We have-examined both the memorandum on urinary pediatric leg bags and our recent communications on trocar catheters against the standards for determining the taxability of the sales of such items as explained in Mrs. Armstrong's letter and have determined that the conclusions expressed are consistent with those standards. The determination of whether or not the sales of a particular medical item are subject to tax is based, as you of course know, on the use of that item. As stated in Mrs. Armstrong's letter, when an item has different uses, the tax consequences of the transfer of the item differ accordingly. Our conclusions as to the items you mention were reached by applying the standards set out by Mrs. Armstrong to the particular facts and circumstances surrounding the use of the items at issue therein as detailed in those communications. The opinions that we expressed therein as to those items are thus correct.

I hope the above discussion has -answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John. L. Waid
 Senior Staff Counsel