

**STATE BOARD OF EQUALIZATION**

916-445-6493

January 24, 1984

Dear X-----,

Re: X-----

Your letter of November 28, 1983 has been referred to me for reply. On behalf of your client, X-----, you request our opinion whether chondroitin sulfate ("CDS") qualifies as a "medicine" under Revenue and Taxation Code Section 6369 (b) and therefore is exempt from sales and use tax under Section 6369 (a). You have provided for our review medical literature describing the use of this product in the treatment of human diseases.

We understand that CDS is a physiological substance that is extracted from shark cartilage. In its purified and sterile form, this substance is used during ophthalmic surgery as a therapeutic agent and as an ophthalmic protective agent in surgical procedures of the anterior segment of the eye (i.e., intraocular lens implantation, keratoplasty, cataract and glaucoma surgery).

Revenue and Taxation Code 6369 (a) provides that tax does not apply to the sale of "medicines" sold and furnished under certain conditions. The term "medicines" is defined under subsection (b) of this statute to mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use. In our view, CDS is a substance intended for use by external and/or internal application to the human body in the treatment of eye disease and is commonly recognized by the medical community as a substance intended for such use. Accordingly, it is our opinion that CDS qualifies as a medicine under Section 6369 (b) and that tax does not apply to the sale or use of this product as provided under Section 6369 (a).

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

Very truly yours,

Charles J. Graziano  
Tax Counsel

CJG:ba