



STATE BOARD OF EQUALIZATION

916-445-6493

January 10, 1984

Dear X-----,

Your letter of November 16, 1983 has been referred to me for reply. You request our opinion as to the correct application of tax to the sale of the Colles' Fracture Splint.

We understand that the Colles' Fracture Splint is a mechanical device that is prescribed by a physician for the treatment and correction of a fracture of the radius bone, the Colles' Fracture, which occurs at or close to the person's wrist joint. This device is apparently designed to reduce certain complications which can result from fractures near the wrist joint by enabling the surgeon to obtain alignment of the bones. Use of this device requires the surgical implantation of two metal pins into the metacarpal bones of the index and long fingers of the user's hand and two pins into the shaft of the radius bone of the forearm. The Colles' Fracture Splint is then attached to the user's hand, wrist, and forearm and secured to the implanted percutaneous pins. This device is fully worn on the person of the user.

The sale and use of tangible personal property in this state is subject to tax, unless its sale or use is otherwise exempt from taxation. Section 6369 of the Revenue and Taxation Code, and Sales and Use Tax Regulation 1591, which interprets and applies this statute provides that "prescription medicines" are exempt from the sales and use tax. The term "medicine" is defined under Regulation 1591(b)(4) to include orthotic devices, or their replacement parts, designed to be worn on the person of the user as a brace, support, or correction for the body structure. In our opinion, the Colles' Fracture Splint is a wrist and arm brace that qualifies as a tax exempt orthotic device under Regulation 1591. Therefore, tax does not apply to the sale or use of this device.

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

Very truly yours,

Charles J. Graziano
Tax Counsel

CJG/jkr