



STATE BOARD OF EQUALIZATION

March 12, 1965

Gentlemen:

This is in reply to your letter of February 16, 1965 in which you inquire if the prescription medicine exemption applies to enemas prepared in tubes, such as the Fleet and Pharmaseal types.

Our district office is correct in their opinion that enema substances fall in the same category as oils, ointments or salves and are classed as medicines whether they are absorbable, partially absorbable or completely nonabsorbable.

Our telephone conversation with you subsequent to receiving your letter gave us the understanding that the Fleet and Pharmaseal type of enemas are prepared in disposable tubes which also serve as the enema apparatus or applicator. Since the applicator is also the disposable container of the enema and is not separate or reuseable administration equipment, the whole will be exempt. Although, in general, administration equipment will not be regarded as included within the prescription medicine exemption, in this instance it appears that these items are single units, the principal component of which is the enema.

We have no extensive list of specific medical items which are not taxable under this exemption. Ruling 22, however, does discuss the application of the law to this general area, and we are enclosing a copy for your perusal. If you have any further questions, please do not hesitate to write to us.

Very truly yours,

Philip R. Dougherty
Assistant Counsel

PRD:ls [lb]

Obviously, to qualify for the exemption, the sale must be by prescription. The sale of a fleet enema over-the-counter would be a sale of medicine, but would be taxable because not sold by prescription.

-DHL
9/3/98

May 15, 1985

PRESCRIPTION MEDICINES – Regulation 1591

(b) Specific Items Classified

Annotation 425.0380 – Enema Preparation.

This annotation is misleading in including the container/applicator within the prescription medicine exemption as part of “a single unit”. The annotation will be amended to properly reflect the opinion letter from which it is taken as follows:

“The sale of an enema preparation in a container which also serves as a disposable tube applicator is exempt from tax. The enema preparation is an exempt medicine (§6369); the container is an exempt container (§6364) regardless of it also serving as an applicator.”

3/12/65; 5/15/85