

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
916/445-6493

June 3, 1983

Mr. R--- A---  
Executive Director  
C--- A--- of  
M--- P--- S---  
XXXX X<sup>th</sup> Street, Suite XXX  
---, CA XXXXX

Dear Mr. A---:

Your letters of February 11, 1983 to Monty Williams and February 24, 1983 to Sherleen Redd of the Board's Audit Evaluation and Planning Unit have been referred to me for reply. You request our opinion as to the correct application of tax to the sale and use of certain medical equipment and supplies.

The following items are only sold or rented by your firm as prescribed by a physician:

1. Liberator/stroller liquid oxygen system rental, liberator vessel and portable stroller.
2. Oxygen Concentrator Unit.
  - (a) any necessary accessories to an oxygen concentrator unit such as a oxygen mask or tubing.
3. High pressure oxygen cylinders, "K" or "H" and "E" sizes.
4. Oxygen regulators to control flow.
5. Oxygen humidifiers to moisten oxygen vapor.
6. Oxygen cylinder stands, for safety.
7. Oxygen cylinder carts, for ambulating, with cylinders.

Revenue and Taxation Code Section 6369.5 provides:

“(a) There are exempted from the taxes imposed by this part the gross receipts from the sale and the storage, use, or other consumption, in this state of any medical oxygen delivery system, including, but not limited to, liquid oxygen containers, high pressure cylinders, and regulators, when sold, leased or rented to an individual for the personal use of that individual as directed by a physician.

“(b) This section shall remain in effect until December 31, 1984, and on that date is repealed, unless a later enacted statute which is chaptered before that date, deletes or extends that date.”

It is our position that the term “medical oxygen delivery system,” as used in Section 6369.5, includes oxygen concentrators, tubes, masks and related items which are necessary for the delivery of oxygen to the person. Therefore, we are of the opinion that the items listed above are not subject to tax when sold or rented to an individual for the personal use of that individual as directed by a physician.

Enclosed for your reference is a notice of public hearing to be held July 27, 1983 and the proposed amendment to Regulation 1591 concerning medical oxygen delivery systems.

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

Very truly yours,

Charles J. Graziano  
Tax Counsel

CJG:ba