



STATE BOARD OF EQUALIZATION

916-324-5589

May 10, 1990

Dear X-----,

This is in response to your letter of April 16, 1990. You have requested our opinion regarding the correct application of tax to the Simplate products sold by your company. Specifically, you wish to know whether these products qualify as exempt prescription medicines under Revenue and Taxation Code section 6369.

Briefly stated, Simplate products are sterile, disposable devices that are used to make uniform incisions for bleeding time tests. The spring-loaded blades are contained in a convenient, easy to use plastic housing. When triggered on the forearm, a Simplate is designed to provide one or two incisions. The device is available in four configurations:

- Simplate with a single blade
- Simplate II with dual blades
- Simplate R with a single retractable blade
- Simplate II R with dual retractable blades

Revenue and Taxation Code section 6369 defines the term "medicines" 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 that use. However, 'medicines' does not include any of the following:

* * * * *

2) Articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof."

We are of the opinion that the Simplate products do not qualify as exempt medicines as that term is used in section 6369. They are in the nature of "instruments,

apparatus, contrivances, appliances (and) devices” which are specifically excluded from the definition of the term medicines in section 6369(b)(2). As such, tax will apply to the sale of Simplate products.

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

Very truly yours,

Mary C. Armstrong
Senior Tax Counsel

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bc: Out-of-State District