

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-6450

April 23, 1992

Ms. F--- A--- S---
Director of Operations
H--- S---, Inc.
XXXX --- Lane
---, California, XXXXX

Re: (SR -- XX-XXXXXX)
Ostomy Supplies and Surgical Fabrics

Dear Ms. S---:

I am writing this in response to your letter to the Legal Division dated March 13, 1992. You are requesting a refund of sales tax on your company's sales of certain products. You described the products at issue as follows:

<u>"Cat#</u>	<u>Description</u>
260:3626 AT	Silicone Flat Drain 10mm
260:3611	CWT Reservoir 15 cc
260:3626	Silicone Flat Drain
200:019214	Cooley Lo-Por Fabric 4x4

"The first three items are used for post operative drainage of an incision site and is subsequently removed. The fabric is used as a patch or reconstructive material that is left permanently in the body...."

You also enclosed brochures describing each of the above products.

OPINION

I explained generally the operation of the prescription medicine exemption in my letter to you on different medical items dated November 20, 1991. For the sake of brevity I will not repeat that discussion here.

You indicate that the first three listed items are used post-operatively to drain the incision site and are subsequently removed. None of the brochures describe the CWT Reservoir, but we assume that bodily fluids are drained into it. We are thus of the opinion that these items qualify as "appliances and related supplies necessary as a result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste" under Regulation 1591(j), the sales of which are exempt from tax when sold or furnished pursuant to Regulation 1591(a).

One of the brochures which you attached to your letter, entitled "Meadox Cardiovascular Fabrics," describes various knits, felts, meshes, pledgets, and fabrics and indicates that they are used to repair an opening or reinforce a closure in the heart or in blood vessels. They appear to assist and strengthen the heart and blood vessels. Such items when in fact permanently implanted in the human body to assist the function of, the heart and blood vessels qualify as prosthetic devices under Regulation 1591(b)(5) with the result that their sales are exempt from tax when sold or furnished under the conditions set forth in Regulation 1591(a).

Regarding filing a claim for refund, Revenue and Taxation Code Section 6904 provides:

"Every claim shall be in writing and shall state the specific grounds upon which the claim is grounded."

Claims for refund for tax previously paid on sales of medical devices should be addressed to the Board of Equalization, Attention Audit Review and Refund Unit, P.O. Box 942879, Sacramento, California, 94279-0001.

I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Tax Counsel

RLW:es