

**STATE BOARD OF EQUALIZATION**

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June 11, 1991

Ms. [B], Tax Accountant
[O]
XXXX --- ---, P.O. Box XXXXX
---, Virginia XXXXX-XXXX

RE: Skin Staples and Staplers

Dear Ms. [B]:

Your letter of April 23, 1991, to the Legal Department has been assigned to me for a response. You have requested advice as to the application of sales and use tax to sales of skin staples and staplers when sold together as a unit. I assume you are asking about the tax consequences generally and not with regard to any particular transaction. Since you did not identify the taxpayer, this letter does not constitute specific written advice to the taxpayer under Revenue and Taxation Code Section 6596. Rather, this letter constitutes general comments regarding the applicability of California Sales and Use Tax Law to a set of hypothetical facts.

OPINION

As you are aware, Revenue and Taxation code Section 6369, interpreted and implemented by Title 28, California Code of Regulations, Regulation 1591, provides that sales of medicines, when prescribed and sold or furnished under certain conditions for the treatment of a human being, are exempt from sales or use tax. "Sutures" are specifically included in the term "medicines". Reg. 1591(b)(2). (Regulations are Board promulgations that have the force and effect of law).

We have previously determined that "sutures" means those items such as silk, thread, wire, or catgut used in the surgical uniting of two pieces of skin. We have also held in the past that disposable loading units, as well as the disposable instruments and loading units (when sold together), that are used to join skin tissue also qualify as "sutures" under Regulation 1591(b)(2). Disposable staplers and staples qualify as "medicines" because they are sold and used as a unit. When sold or furnished under the conditions set forth in Regulation 1591(a), their sales are exempt from tax.

We have also previously concluded that non-disposable staplers, as well as staple removers, are durable pieces of medical equipment and so are “appliances, etc.”, specifically excluded from the term “medicines” by Regulation 1591(c)(2). As such, their sales are subject to tax.

For your information, I have enclosed a copy of Regulation 1591. 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

JLW:es

Enclosure: Regulation 1591