

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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October 6, 1986

Ms. R--- R---
Credit Manager
H--- M--- S--- Inc.
XXXXX --- ---
---, CA XXXXX

Re: SR --A XX-XXXXXX

Dear Ms. R---:

Your letter of August 21, 1986 has been referred to me for a response. You request an opinion concerning the correct application of tax to the sale of an item called Sterile Stockinette.

You write that Stockinette is categorized as a dressing with a variety of medical purposes. Some of the principal usages include the following:

- Cast component
- Wrapping for fractures
- Surgical drape
- Surgical sleeve
- Overwrap (over other dressings)
- Dressing for vein ligations
- Pressure Dressing

You believe that the sale of Stockinette is exempt from tax when used as a cast component or as a wrapping for fractures pursuant to Sales and Use Tax Regulation 1591(b)(4). However, with respect to the other listed usages, you believe the sale of the Stockinette is taxable regardless of whether the Stockinette is sold in a sterile or unsterile condition.

Finally, you write that you intend to continue to bill and collect taxes on sales of all Stockinettes but will inform your customers that "They are entitled to claim a credit on their (sales) tax returns for the tax paid to the extent that their usages are in the non-taxable categories."

Revenue and Taxation Code Section 6051 imposes tax on the gross receipts of retailers from the sale of tangible personal property in this state except where the sale is specifically excluded or exempted from taxation by statute. Section 6369(a) exempts the sales of medicines, as defined, from tax. Section 6369(d) specifically excludes from the term "medicines" dressings, while Sales and Use Tax Regulation 1591(b)(4), which interprets and applies the code, defines medicines to include casts and cast components. In addition, Section 6369(c)(3) and Regulation 1591(b)(4) define "medicine" to include orthotic devices worn on the body as a brace, support or correction for the body structure.

Finally, Section 6421 and Regulation 1667(b) provide that a seller is relieved from the liability for sales tax if the purchaser timely certifies in writing to the seller that the property will be used in a manner or for a purpose entitling the seller to exempt the gross receipts from the sale from tax. The certificate relieves the seller from liability for the sales tax only if it is taken in good faith.

Applying the above criteria, we are of the opinion that the sale of the Stockinette is exempt from tax when sold as a cast or cast component pursuant to Regulation 1591(b)(4). We are also of the opinion that when the Stockinette is sold as a wrapping for fractures, it is functioning as a support or correction for the body structure and would qualify as an orthotic device, the sale of which is also exempt from tax. However, when the Stockinette is sold as a "dressing" or for any of the other purposes listed in your letter (whether sold in a sterile or nonsterile condition), its sale is taxable since the code specifically provides that "dressings" do not qualify as exempt medicines and the code or regulations do not specifically exempt the sale of the Stockinette for the other usages listed in your letter.

Finally, we note that pursuant to Section 6241 and Regulation 1667(a), if your customers timely certify in writing that the Stockinette is to be used as a cast, cast component, or wrapping for fractures, then you are relieved from sales tax liability and entitled to exempt such sales from your gross receipts.

We hope the above information is helpful. Enclosed for your review and reference is a copy of Sales and Use Tax Regulation 1591 (Prescription Medicines) and 1667 (Exemption Certificates). If you have any further questions concerning this topic, please do not hesitate to write this office.

Sincerely,

Robert J. Stipe
Tax Counsel

RJS:sr

Encs.