



STATE BOARD OF EQUALIZATION

916-322-3684

January 14, 1986

Dear X-----,

Your letter of November 4, 1985 has been referred to me for a response.

You write that X-----, a wholly owned subsidiary of X-----, is presently engaged in the business of manufacturing and selling surgical instruments and related hospital disposable supplies.

One of the more recent products you sell is called "Rancy clips." These "clips" are used during certain surgical procedures as an external "suture" during the operation and are then disposed. You have attached a flyer with a picture and description concerning the application of "Rancy Clips". The flyer indicates that "Rancy Clips" are to be used to "temporarily control scalp bleeding in neurosurgery or any procedure (such as facelift) where clip hemostasis is effective on incision edges." The "clips" appear to be made of plastic and are disposable. Your product manager at X----- considers "Rancy Clips" to be a suture and is sold as such along with existing hemo clips and Heifitz clip line of sutures. You have also attached a copy of page 2646 of the Hospital Supply Index wherein the I.M.S. recognizes "Rancy Clips" to be a suture.

You indicate that you are charging California tax on this product, and in the past, two major customers in California, X----- hospital and X----- have deleted the tax on "Randy Clips" and have indicated to you that these clips are exempt in California as sutures. You request our opinion concerning the correct application of tax to the sale of "Randy Clips"

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers from all retail sales of tangible personal property in this state (Rev. & Tax. Code §6051). Section 6369(a) of the Code exempts the sale of "medicines" from tax. Sales and Use Tax Regulation 1591(b)(2), which interprets and applies the Code, defines "medicine" to include "sutures, whether or not permanently implanted". We have held in the past that "sutures" means those items such as silk, thread, wire or catgut used in the surgical uniting of two pieces of skin.

The “Rancy Clips” described in your letter and the attached flyer are a plastic “clip” that is designed to “temporarily control bleeding” on incision edges during surgery. On the other hand, a “suture”, for purposes of the California Sales Tax Law, is a more permanent process whereby items such as silk, thread, etc., are used in the surgical uniting of two pieces of skin. Therefore, we are of the opinion that “Rancy Clips” are not “sutures” pursuant to Regulation 1591(b)(2) and their sale is subject to tax.

We hope the above information answers your question Enclosed you will find a copy of Sales and Use Tax Regulation 1591 (Prescription Medicines) for your review and reference. If you have any further questions, please do not hesitate to write this office.

Very truly yours,

Robert J. Stipe
Tax Counsel

RJS:sr