

**STATE BOARD OF EQUALIZATION**

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February 5, 1996

REDACTED TEXT

Dear REDACTED TEXT:

This is in response to your letter dated January 16, 1996, regarding the application of tax to certain charges made by REDACTED TEXT to REDACTED TEXT. You ask if the following transaction is subject to tax. You state:

“We store, clean, maintain, add new individual components (i.e. commode bucket replacement on reuse), inspect, deliver and retrieve REDACTED TEXT owned medical equipment. We term this a delivery charge and pick-up charge; however, this is a bundled charge for all the services.”

DISCUSSION

Retail sales of tangible personal property in California are subject to sales tax, measured by the gross receipts, unless the sale is specifically exempt from taxation by statute. (Rev. & Tax. Code § 6051.) The term “sale” means any transfer of title or possession of tangible personal property for consideration. (Rev. & Tax. Code § 6006(a).) The term “sale” also means the producing, fabricating, processing, printing, or imprinting of tangible personal property for consideration for consumers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting. (Rev. & Tax. Code § 6006(b).) When sales tax does not apply, use tax, measured by the sales price, applies to the use of tangible personal property purchased from a retailer for the storage, use, or other consumption in California, unless the use is exempt from taxation by statute. (Rev. & Tax. Code §§ 6201, 6401.) Neither the sales tax nor the use tax applies to charges for services not constituting sales of tangible personal property. (Reg. 1501 (copy enclosed).)

You state that REDACTED TEXT stores, cleans, maintains, inspects, delivers, and retrieves medical equipment owned by REDACTED TEXT. For purposes of this opinion, we assume that REDACTED TEXT does not transfer any tangible personal property to REDACTED TEXT when providing such services; therefore, the charges for the provision of such services are not subject to tax.

You further state that REDACTED TEXT adds new individual components to medical equipment owned by REDACTED TEXT, for example, a commode bucket replacement. We assume that REDACTED TEXT is merely adding a new individual component part, provided by REDACTED TEXT, to an equipment owned by REDACTED TEXT. That is, we assume that REDACTED TEXT is not furnishing any tangible personal property. We further assume that REDACTED TEXT is maintaining used property, and that REDACTED TEXT is not fabricating any new tangible personal property. (See Rev. & Tax. Code § 6006(b).) Thus, because REDACTED TEXT is providing purely a service and is not selling any tangible personal property to REDACTED TEXT, we conclude that the transaction is not subject to tax. We note that if REDACTED TEXT is transferring new component parts to REDACTED TEXT, such transfer would probably be regarded as a retail sale of tangible personal property subject to tax.

If you need any further information, please feel free to write again.

Sincerely,

Sophia H. Chung
Staff Counsel

SHC:rz

Enclosure: Regulation 1501

cc: REDACTED TEXT District Administrator