

**TENNESSEE DEPARTMENT OF REVENUE
REVENUE RULING #06-15**

WARNING

Revenue rulings are not binding on the Department. This presentation of the ruling in a redacted form is information only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Departmental policy.

SUBJECT

Whether certain medical devices are exempt from sales and use tax as prosthetic devices.

SCOPE

Revenue rulings are statements regarding the substantive application of law and statements of procedure that affect the rights and duties of taxpayers and other members of the public. Revenue rulings are advisory in nature and are not binding on the Department.

FACTS

Company A (hereinafter the “Taxpayer”) is a manufacturer and distributor of medical devices. The devices include Vena Cava Filters that are used in individuals diagnosed with deep vein thrombosis (DVT), a medical condition in which blood clots (thrombi) form in the veins of the leg. The Taxpayer’s products are primarily sold to physicians, hospitals, and other medical facilities. The Vena Cava Filter sold by the Taxpayer is a small metal device designed to protect against a life threatening condition called pulmonary embolism. Pulmonary embolism is the result of blood clots that are formed in large deep veins, normally in the legs, traveling through the blood stream to the smaller

veins in the lungs. When these clots reach the smaller veins of the lungs, they block blood flow to the lungs preventing blood from receiving oxygen. Any factor that alters the body's normal blood clotting mechanism can put an individual at risk for DVT.

The Vena Cava Filter is permanently implanted in a large vein, called the vena cava, to trap the clots, or emboli, and prevent them from reaching the smaller pulmonary veins. The filter has six legs that are joined together to form a cone that allows the filter to effectively protect against pulmonary embolism while allowing blood to flow through it. Over time, a natural process called clot lysis will dissolve the trapped embolus.

A doctor uses a specially designed introducer system to place the filter. The introducer system is introduced through either a vein in the groin or the neck and then guided to the vena cava. When the doctor releases the filter from the introducer system, the hooks at the base of the legs attach securely to the wall of the vena cava, permanently implanting the filter.

The Vena Cava Filter System is sold as a preloaded filter on the introducer system. The system is also sold with a sheath/dilator, vascular dilator, and a guide wire which all accompany the introducer system. All these components of the Vena Cava Filter System are sold for one unit price.

QUESTION

Are Vena Cava Filter Systems exempt from sales and use tax as prosthetic devices?

RULING

Yes.

ANALYSIS

Under the Retailers' Sales Tax Act, Tenn. Code Ann. § 67-6-101 et. seq., the sale of tangible personal property is generally subject to sales and use tax unless an exemption applies. Several specific exemptions apply to the sale of medical equipment and supplies including the following exemption for orthotics and prosthetics:¹

Tenn. Code Ann. § 67-6-314(5) provides as follows:

There is exempt from the sales tax imposed by the chapter. . .

¹ Legislation related to the Streamlined Sales and Use Tax Agreement, effective July 1, 2007, may result in changes regarding the application of sales and use tax sales of certain items of tangible personal property. The Department of Revenue encourages you to visit our website at www.tennessee.gov/revenue for updates.

(5) The sale or repair of prosthetics, orthotics, special molded orthopedic shoes, walkers, crutches, surgical supports of all kinds, and other similarly medical corrective or support appliances and devices.

A device is a prosthetic if it replaces a missing body part or augments the performance of a natural function. *Cordis Corp. v. Taylor*, 762 S.W.2d 138, 139 (Tenn. 1988). The court in *Cordis* held that an implantable cardiac pacemaker is a prosthetic because it replaces or augments the missing or reduced body function of providing a stimulus for the beating of a heart. *Id.* The court also held that a hydrocephalus valve system is a prosthetic because it is an artificial device that augments the natural flow of cerebral spinal fluid from the brain into the bloodstream. *Id.*

The Vena Cava Filter manufactured by the Taxpayer is permanently implanted in the vena cava to trap the clots or emboli, and to prevent them from reaching the smaller pulmonary veins. According to the Tennessee Supreme Court's interpretation of a prosthetic device in *Cordis*, devices which replace a body part or augment the performance of a natural function are considered exempt as prosthetic devices. Since the Vena Cava Filter augments the function of the pulmonary veins by preventing clots from the vena cava from blocking the veins and thus keeping the veins open for blood to flow through them, it qualifies as a prosthetic device under Tenn. Code Ann. § 67-6-314(5).

The introducer system, including the sheath/dilator, the vascular dilator,² and a guide wire, is considered disposable because it is useless and valueless after the preloaded filter is delivered. The Department has taken the position that a disposable unit that holds and delivers an exempt medical device constitutes a single item which qualifies for the exemption under Tenn. Code Ann. § 67-6-314(5). Based on this reasoning, the introducer system, including the dilators and guide wire, is also exempt as a prosthetic device.

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Commissioner

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² The sheath/dilator and the vascular dilator are small tubes that hold the blood vessels open while the Vena Cava Filter System is being inserted.

