

**TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING # 97-64**

**WARNING**

**Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.**

**SUBJECT**

Application of sales and use tax to a medical product.

**SCOPE**

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

**FACTS**

[THE TAXPAYER] has recently begun distributing a product called Seprafilm. Seprafilm is a unique bioresorbable membrane that serves as a barrier to

separate opposing tissue within the body. The use of Seprafilm significantly reduces the incidence, severity, and extent of post-surgical adhesions which are a natural consequence of surgery and lead to serious postoperative complications. Seprafilm is inserted prior to closure of the wound to prevent the adhesion of two surfaces of tissue.

Post-surgical adhesions can occur after both open and laproscopic surgery. They result from the normal process of tissue repair and form when tissue surfaces that are usually separated become united. The complications resulting from adhesion vary depending on the type of surgery involved, and can include bowel obstruction, infertility, and difficulty in reoperative procedures. Due to the serious nature of the complications, it is an important objective to reduce the occurrence of adhesion.

### **ISSUES**

Whether the sale of Seprafilm is exempt from sales tax pursuant to Tenn. Code Ann. § 67-6-314(5).

### **RULINGS**

The sale of Seprafilm is exempt from sales tax under Tenn. Code Ann. § 67-6-314(5).

### **ANALYSIS**

Tenn. Code Ann. § 67-6-314(5) provides an exemption from the sales tax for “[t]he 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). *Cordis* held that an implantable cardiac pacemaker is a prosthesis because it replaces or augments the missing or reduced body function of providing a stimulus for the beating of a heart. *Id.* *Cordis* also held that a hydrocephalus valve system is a prosthesis because it is an artificial part which augments the natural flow of cerebral spinal fluid from the brain into the bloodstream.

Seprafilm is placed in a patient to prevent two or more surfaces of tissues from adhering after a surgical procedure. Seprafilm is used to augment or enhance the healing of the body. The activity of the body which causes a closure or healing of a wound is clearly a bodily function. Thus, Seprafilm augments the body’s ability to recover from surgery by preventing the adhesion of tissues. Accordingly, the sale of Seprafilm is exempt from tax pursuant to Tenn. Code Ann. § 67-6-314(5).

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Caroline R. Krivacka  
Tax Counsel

APPROVED:

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Ruth E. Johnson  
Commissioner

DATE: 12-23-97