

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING #95-20**

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 Tennessee sales and use tax to various types of catheters, skin staplers, and clip appliers.

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

_____ sells to customers located in Tennessee various types of catheters, skin staplers, and clip appliers. Catheters are described by _____ to be hollow tubes of metal, glass, hard or soft rubber, rubberized silk, or plastic which are introduced into a cavity through a narrow canal for purposes of discharging the fluid contents of a cavity or for establishing the patency of a canal. _____ requests a ruling indicating whether the following products are subject to Tennessee sales and use tax.

Urinary Catheter -- Urinary catheters are passed into the bladder for the relief of urinary retention.

Angiographic Catheters -- These catheters are used by radiologists to view blood vessels from inside the body. The catheter is introduced into the vessel by means of small incision in the body. A contrast dye is then injected into the catheter which enables the radiologist to view (x-ray) the vessel internally for evidence of disease or blockage. The catheter is removed from the body after the radiologist is finished. This catheter is used for diagnostic purposes only.

I.V. Catheters -- These catheter products are inserted into the body to deliver certain drugs directly to a specific site within the body.

Foley Catheters -- Foley catheters include products used for either temporary or permanent drainage. Most of the products allow for percutaneous drainage (i.e. upper urinary tract blockages, intraabdominal fluid collections, biliary drainage, etc.). The stent products are generally placed inside the body for internal drainage (i.e. biliary drainage) and are intended to stay in the body for longer periods of time. The patients requiring the drainage products are incapable of excreting waste normally.

Suction Catheter -- This catheter is used for the removal of respiratory tract secretions. The catheter is inserted through tracheal and tracheostomy tubes. Four eyes at the catheter's tip serve as vacuum breakers to help prevent tissue from being pulled into the tube. Since suctioning removes the patient's air supply, suction should not exceed 10 seconds duration. Suction catheters are intended for single use only.

Balloon Dilation Catheters -- The catheter is introduced into the body by means of either a small incision or an opening in the body. In general these products are used to dilate blocked or strictured areas in the body. Specifically, a Percutaneous Transluminal Coronary Angioplasty (PTCA) catheter is used to dilate coronary vessels.

Electrophysiology Catheter Products -- These diagnostic catheter products are inserted into the heart and involve mapping the heart's anatomy and physiology from a detailed analysis of electrical signals of the heart. This information is used to isolate and characterize arrhythmias and other disturbances in the heart.

Disposable LIGACLIP Applier (Single Patient Use) -- This device is used to close wounds. The device consists of a cartridge housing of clips and a delivery mechanisms in the nature of a staple "gun" or clip applier. This device is not sold separately from the clips.

Disposable Staplers (Single Patient Use) -- This device is used to close wounds. The device consists of a cartridge housing of staples and a delivery mechanism in the nature of a staple "gun." This device is not sold separately from the staples.

QUESTION

Whether the above-listed medical devices are subject to Tennessee sales and use tax.

RULING

The medical devices are subject to Tennessee sales and use tax as follows:

Urinary catheters are not subject to sales and use tax.

Angiographic catheters are subject to sales and use tax.

I.V. catheters are subject to sales and use tax.

Foley catheters are not subject to sales and use tax.

Suction catheters are not subject to sales and use tax.

Balloon dilation catheters are subject to sales and use tax.

Electrophysiology catheter products are subject to sales and use tax.

Disposable LIGACLIP Appliers are not subject to sales and use tax.

Disposable Staplers are not subject to sales and use tax.

ANALYSIS

T.C.A. Section 67-6-314 provides a list of specific medical equipment that is exempt from the Tennessee Sales and Use Tax. Paragraph (5) of this statute, in pertinent part, provides an exemption for "prosthetics." This exemption was intended to exempt a "prosthesis" which is a device used to replace a missing body part or to augment a body function. Cardiac pacemakers and hydrocephalus valve systems have been held by the Tennessee Supreme Court to be exempt under this provision. *Cordis Corp. v. Taylor*, 762 S.W.2d 138, 140 (Tenn. 1988). There exists no specific exemption, however, for surgical tools or appliances used to perform surgery or invasive medical procedures.

The above principles apply to the medical devices at issue as follows.

Urinary catheters are prosthetic devices. The urinary catheters replace the natural body function of relieving the bladder.

Angiographic Catheters are not prosthetic devices and do not qualify for any other medical equipment exemption. Angiographic catheters enable radiologists to view blood vessels from inside the body for diagnostic purposes only. No exemption exists for surgical or diagnostic tools.

I.V. catheters are not prosthetic devices and do not qualify for any other medical equipment exemption. These devices are used to deliver drugs to a specific location. They do not substitute for or augment a natural function.

Foley catheters are prosthetic devices. These catheters provide drainage for patients incapable of excreting waste normally. This replaces or augments a natural body function.

Suction catheters are prosthetic devices. These catheters are used to remove respiratory tract secretions. These secretions would be removed through coughing or swallowing if the body was functioning properly. Therefore, the catheters replace a natural body function.

Balloon dilation catheters are not prosthetic devices and do not qualify for any other medical equipment exemption. These catheters function as surgical tools. They are used to enter blood vessels and remove obstructions, thus allowing the vessel to function as it naturally should. These catheters are tools for repairing vessels rather than prosthetic substitutes for vessels.

Electrophysiology catheter products are not prosthetic and do not qualify for any other medical equipment exemption. These products are described as diagnostic in nature and do not replace or augment any natural body part or function.

Disposable LIGACLIP applicators and disposable staplers, both for single patient use, are prosthetic devices. Clips and staples have been exempted by the Department as prosthetic devices when imbedded in the body of an individual in order 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 body function. Because the clips and staplers are prosthetics, the disposable devices for single patient use in administering the clips and staplers are prosthetic devices.

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APPROVED: Ruth E. Johnson
Commissioner

DATE: 6/2/95