

MEDICAL EQUIPMENT

Notice #07-22

Sales and Use Tax

December 2007



Highlights

- *January 1, 2008 new definitions for medical equipment*
- *Exemptions have also changed and are highlighted in this notice*
- *Prosthetic device defined in T.C.A. § 67-6-102*
- *Prosthetic devices for human use are exempt under T.C.A. § 67-6-314(1)*

INTRODUCTION

This notice is intended to provide taxpayers and the general public with information concerning Public Chapter 602, Acts of 2007, which makes substantial changes to Tennessee sales and use tax laws to adopt new definitions for medical equipment that are in compliance with the Streamlined Sales and Use Tax Agreement.

Effective January 1, 2008, Tennessee has adopted definitions for the following terms: prosthetic device, durable medical equipment, mobility enhancing equipment, and prescription. Previously, Tennessee statutes did not define these terms.

Adopting these definitions and amending the exemption statutes to incorporate these terms will affect the taxability or exemption of certain medical equipment. These changes apply to purchases made on or after January 1, 2008. A list of examples of each type of medical equipment is available on the department's Web site.

DISCUSSION**Prosthetic device**

Before the statutory change, Tennessee exempted medical equipment as a prosthetic device if it replaced a missing body part or augmented the performance of a natural function. While the new definition of prosthetic device is very similar, an important change is the requirement that a prosthetic device must be worn on or in the body.

- (A) "Prosthetic device" means a replacement, corrective, or supportive device including repair and replacement parts for same, worn on or in the body to:
- (i) Artificially replace a missing portion of the body;
 - (ii) Prevent or correct physical deformity or malfunction; or
 - (iii) Support a weak or deformed portion of the body.
- (B) "Prosthetic device" does not include:
- (i) Corrective eyeglasses; or
 - (ii) Contact lenses.

Prosthetic devices for human use are exempt from tax. Examples of prosthetic devices worn on or in the body include:

- artificial arms and legs
- hearing aids
- heart valves
- ankle braces
- dental prostheses
- pacemakers
- insulin pumps
- orthopedic shoes
- items worn that are necessary to wear an artificial limb

➤ *Treatment of eyeglasses and contact lenses remains the same*

A prescription is not required to qualify for the exemption.

The taxability of corrective eyeglasses and contact lenses has not changed. Optometrists, opticians and ophthalmologists must continue to pay tax on the purchase price of corrective eyeglasses and contact lenses, and the charges made to their patients are exempt from tax.

Durable Medical Equipment

Durable medical equipment includes reusable medical and diagnostic equipment. Durable medical equipment does not include disposable medical supplies.

➤ *Durable medical equipment defined in T.C.A. § 67-6-102*

“Durable medical equipment” means equipment, including repair and replacement parts for same, (but does not include mobility enhancing equipment) which:

- A. Can withstand repeated use;
- B. Is primarily and customarily used to serve a medical purpose;
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

➤ *New exemption for durable medical equipment for home use under T.C.A. § 67-6-314(2)*

There is a new sales and use tax exemption for durable medical equipment for home use dispensed pursuant to a prescription for human use. Examples of durable medical equipment that are exempt from tax if sold to an individual for home use and dispensed pursuant to a prescription include:

- hospital beds - bed rails - IV poles - IV pumps - bed pans
- special beds and mattresses - commode chairs

Sales of durable medical equipment to or for a facility such as a hospital, nursing home, clinic, or dental office is not considered for home use and is subject to tax. Sales to an individual for home use include use in residential facilities such as nursing homes, assisted care centers, or school dormitories.

Mobility Enhancing Equipment

➤ *Mobility enhancing equipment defined in T.C.A. § 67-6-102*

“Mobility enhancing equipment” means equipment, including repair and replacement parts to same, (but does not include durable medical equipment) which:

- A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
- B. Is not generally used by persons with normal mobility; and
- C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

➤ *Mobility enhancing equipment is exempt when dispensed pursuant to a prescription T.C.A. § 67-6-314(6)*

Mobility enhancing equipment dispensed pursuant to a prescription for human use is exempt from sales and use tax. Examples of mobility enhancing equipment that are exempt from sales and use tax when dispensed pursuant to a prescription include:

- wheelchairs - crutches - grab bars - trapeze bars - chair lifts - canes
- motorized carts - walkers - controls that are installed on motor vehicles

Sales no longer have to be made directly to a handicapped person to qualify for exemption.

➤ *Motor vehicles are not mobility enhancing equipment for purposes of this exemption*

Motor vehicles and standard equipment that are normally provided by a motor vehicle manufacturer are not mobility enhancing equipment and do not qualify for the exemption.

Prescriptions

To qualify for exemption from tax, durable medical equipment for home use and mobility enhancing equipment must be sold or dispensed pursuant to a prescription.

➤ *Prescription is defined in T.C.A. § 67-6-102*

“Prescription” means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

The definition of prescription includes orders written on a patient’s chart by a duly licensed practitioner.

➤ *Repair and replacement parts*

Repair and Replacement Parts

Repair and replacement parts for prosthetic devices are exempt from sales and use tax with or without a prescription. Repair and replacement parts for durable medical equipment for home use and mobility enhancing equipment are exempt from sales and use tax *ONLY if such equipment was purchased pursuant to a prescription.*

➤ *Certain other medical equipment and supplies continue to be exempt*

Other Medical Equipment and Supplies

The following items continue to be exempt from sales and use tax even though the items are not prosthetics, durable medical equipment, or mobility enhancing equipment:

- Any syringe used to administer insulin for humans. Tenn. Code Ann. § 67-6-314(7).
- Disposable medical supplies, such as bags, tubing, needles, and syringes, dispensed by a licensed pharmacist pursuant to a prescription for the intravenous administration of any prescription drug used in the treatment of a patient *outside* of a hospital, skilled nursing facility, or ambulatory surgical treatment center. To be exempt, the supplies must come into direct contact with the prescription drug being administered. Tenn. Code Ann. § 67-6-314(8).
- Computer software designed for use in the treatment of individuals with a learning disability dispensed pursuant to a prescription. Tenn. Code Ann. § 67-6-314(9).
- Disposable ostomy products for use by persons who have had colostomies, ileostomies, or urostomies. Tenn. Code Ann. § 67-6-314(10).

➤ *Some durable medical equipment continues to be exempt even without a prescription or home usage*

While the following items are durable medical equipment, specific exemptions have been adopted that provide for the *continued* exemption from sales and use tax for sales regardless of whether sold pursuant to a prescription or sold for home use:

- Oxygen delivery equipment and disposable medical supplies necessary to administer or deliver medical oxygen for human use. Tenn. Code Ann. § 67-6-314(3).
- Kidney dialysis equipment for use in the treatment of humans. Tenn. Code Ann. § 67-6-314(4).
- Enteral feeding systems for use in the treatment of humans. Tenn. Code Ann. § 67-6-314(5).

For-profit hospitals and nursing facilities

➤ *For-profit hospitals and nursing homes*

- Durable medical equipment sold to or for use in facilities such as for-profit hospitals, skilled nursing facilities, ambulatory surgical treatment centers, physicians' offices, and dentists' offices is subject to sales and use tax.
- Enteral feeding systems, oxygen delivery equipment for human use, disposable medical supplies necessary to administer such oxygen for human use, and kidney dialysis equipment that are sold to or for use in such facilities are exempt from sales and use tax.
- Mobility enhancing equipment sold to or for use in facilities such as for-profit hospitals, skilled nursing facilities, ambulatory surgical treatment centers, and physicians' offices are subject to sales and use tax. Mobility enhancing equipment that will be prescribed and given to a patient as a result of providing healthcare services is exempt from sales and use tax.
- Repair and replacement parts for durable medical equipment and mobility enhancing equipment sold to for-profit hospitals, skilled nursing facilities, ambulatory surgical treatment centers, and physicians' offices are subject to sales and use tax.
- Sales of prosthetics to for-profit hospitals, skilled nursing facilities, ambulatory surgical treatment centers, and physicians are exempt from sales and use tax.

Documenting Exempt Sales

➤ *Required documentation*

Sellers are required to maintain information in their books and records to document tax exempt sales.

In order to document exempt sales of durable medical equipment for home use or mobility enhancing equipment, sellers must maintain evidence that the purchase was made pursuant to a prescription issued by a licensed practitioner. Upon request, sellers are required to supply such information to substantiate tax-exempt sales. It is not necessary and not required for sellers to obtain an exemption certificate from purchasers presenting a prescription.



References:

*PC 602 (2007)
T.C.A. § 67-6-102
T.C.A. § 67-6-314*

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.