

**TENNESSEE DEPARTMENT OF REVENUE
REVENUE RULING #06-13**

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

Ureteroscopy is a common procedure performed by urologists. The most common indication is to treat upper urinary tract calculi that are either unsuitable for extracorporeal shockwave lithotripsy or are refractory to that form of treatment. Other common indications include evaluation of an abnormal lesion noted on findings from less invasive imaging tools (e.g., intravenous pyelography [IVP], MRI, CT scan) or localizing a source of positive urine culture results or cytology results.

Company A (hereinafter the “Taxpayer”) is a manufacturer and distributor of medical devices. The devices include different types of ureteral catheters that facilitate essential preliminary procedural components of ureteroscopy. The Taxpayer’s products are primarily sold to physicians, hospitals, and other medical facilities. Ureteral catheters are designed in a variety of configurations. The human characteristics of the ureteral orifice and urologist preference determine the choice of design in a specific clinical situation.

Once the choice of design is chosen, the catheter is positioned within the ureteral orifice under direct vision. A catheter adaptor is secured to the ureteral catheter. Contrast medium, a type of dye, is then injected through the ureteral catheter into the ureter. With the contrast media in place the medical professional can visualize the ureter with specialized ureteroscopic instrumentation.

After the contrast injection is complete, and while the ureteral catheter remains in the ureter, the guidewire is inserted through the catheter and advanced into the ureter. A coated guidewire within the ureter is essential to permit safe advancement of subsequent instrumentation. After the wire is in place, the ureteral catheter may then be withdrawn, or, if necessary, advanced further over the wire for delivery of additional contrast.

QUESTION

Are ureteral catheters exempt from sales and use tax as prosthetic devices?

RULING

No.

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. . .

(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.*

Ureteral Catheters are not prosthetic devices and do not qualify for any other medical equipment exemption because they do not replace or augment a missing or reduced body

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.

function. Ureteral catheters enable urologists to view the ureters from inside the body for diagnostic purposes only. No exemption exists for surgical or diagnostic tools. Accordingly, the guidewire used to insert the ureteral catheter is also not exempt from sales and use tax.

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