

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

March 27, 2002

Re: Our File Number LR-02-029; Taxability of medical devices and products

Dear

We submit the following in reply to your request for a ruling of the sales taxability of the items listed in your correspondence in regards to not for profit hospitals located within the State of Oklahoma.

Please be advised that medical products themselves are not exempt based on their use or status as prescription or non-prescription health care products.

As to Heart Valves and Vascular Grafts, Section 1357 (20) of Title 68 exempts "sales of prosthetic devices to an individual for use by such individual." In that same section prosthetic device is defined as " a device which replaces a missing part of the human body..." Since the Heart Valves and Vascular Grafts do not replace a missing part of the human body, it is not exempt when purchased by a health care provider or hospital.

A health care provider may purchase legend drugs, oxygen, insulin and ocular implants exempt from sales and use tax. Other medical products, supplies and devices sold to health care providers for use in providing medical or patient care would be subject to tax. While there is an exemption for medical supplies sold or leased on behalf of patients who are reimbursed by Medicaid and Medicare, this exemption does not extend to purchases made by health care facilities, but only to a vendor's direct sales to a patient who is a Medicaid or Medicare recipient. Please note there are facilities, which are exempt on their purchases of tangible personal property and taxable services because of their status as federal institutions or as political subdivisions of the State of Oklahoma. See Sections 1356 and 1357.6 of Title 68, Oklahoma Statutes and Oklahoma Tax

Commission Rules 710:65-1-7, 710:65-7-6, 710:65-13-130, 710:65-13-169, 710:65-13-170 and 710:65-19-142. Also, note Commission Rule 710:65-13-173(d) which contains a list of exempt medical equipment for Medicaid or Medicare recipients.

Other entities not listed in the above discussions would be subject to tax on their purchases if they do not have a resale certificate. However, in order for a vendor to be relieved of liability to collect sales tax proper documentation to substantiate the exempt status of the organization must be retained in the vendor's records. Please note that Tax Commission Rule 710:65-7-6, a copy of which is enclosed, "**Vendor's relief from liability and duty to collect sales tax**", describes in detail the requirement needed to establish "**properly completed documentation certified by the Tax Commission**".

Generally labor charges for installation or repair services are not taxable if the vendor and vendee agree to them separately and they are disclosed as a separate line item on the bill or invoice. See Commission Rules 710:65-19-158, 710:65-1-11(c).

Copies of the statutory references and rules are enclosed. If I can be further assistance, please write or contact me at (405) 521-3133.

This response applies only to the circumstances set out in your request of March 5, 2002. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law. If I can be of further assistance, please feel free to contact me.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

Enclosure