

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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

August 19, 2002

Re: Our File No. LR02-032B; Sales tax on the sale of ‘

Dear

In our earlier responses to your letter, we stated that _____ was not a drug and that therefore the exemption for drugs prescribed by persons licensed to prescribe drugs would not be applicable.

However, in a letter ruling issued recently by the Office of the General Counsel of the Oklahoma Tax Commission, a similar substance was held to be a drug. Therefore, ‘ _____ is a drug and since it may be administered only by a person licensed to prescribe drugs, sales of _____ are exempt in accordance with Oklahoma Tax Commission Rule 710:65-13-170.

This response applies only to the circumstances set out in your request of August 16, 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,
OKLAHOMA TAX COMMISSION



Michael G. Pillow
Tax Policy Analyst

OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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April 18, 2002

Re: Our file Number LR-02-032; Sales taxability of sales of _____

Dear _____

This is in response to your inquiry concerning the sales taxability of sales of _____ a joint fluid therapy device. I have set out the requested rulings below. Each is followed by our response.

Requested Ruling I

The sale of _____ to an Oklahoma Practitioner is exempt from the Oklahoma sales and use tax as a drug prescribed by a licensed person.

Response: Based on the information contained in your letter, it does not appear that _____ is a drug and therefore the exemption for drugs prescribed by persons licensed to prescribe drugs would not be applicable.

Requested Ruling II

If Ruling I is not agreed to, then the sale of _____ to an Oklahoma Practitioner is exempt from Oklahoma sales and use tax as a prosthetic device.

Response: It does not appear that _____ replaces a missing part of the human body, therefore it is not exempt from sales tax as a prosthesis. Even if it were a prosthetic device, it would not qualify for the sales tax exemption since it is sold to practitioners, not to individuals.

Requested Ruling III

If sales of _____ to Oklahoma are generally subject to Oklahoma sales and use tax, then those sales for which the documentation requirements of OTC Rule 710:65-134-173(b) or(c) are met are exempt from Oklahoma sales and use tax.

Response: We are in agreement with this requested ruling. Those sales in which the documentation requirements of Oklahoma Tax Commission Rule 710:65-13-173 are met, are exempt from sales or use tax.

Requested Ruling IV

If Oklahoma sales and use tax applies to the sale of _____ or other similar joint fluid solutions classified as a device by the FDA, then the tax would apply even if the seller is primarily a manufacturer or retailer of pharmaceuticals.

Response: We agree that since the tax applies to _____ or other similar fluid solutions, the tax would apply even if the seller is a manufacturer or retailer of pharmaceuticals.

This response applies only to the circumstances set out in your request of March 26, 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,
OKLAHOMA TAX COMMISSION



Michael G. Pillow
Tax Policy Analyst