OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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September 27, 2005

Re: Our File Number LR-05-130; Taxability of medical food products

Dear l

This is in response to your inquiry for written tax advice on Oklahoma's Sales Tax Policy concerning medical food products. Please be advised that the Oklahoma Sales Tax code contains no exemption of food or medical food products or nutritional supplements, etc. from the levy of sales tax unless the food or food product is purchased with food stamps.

Additionally, medical products themselves are not exempt based on their use or status as prescription or non-prescription health care products. 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.

Based on the information contained in your letter, it does not appear that the product described in your correspondence as which is intended for use as a medical food in the dietary management of ulcerative colitis (UC) or an ileal pouch anastimosis," is a drug and therefore the exemption for drugs prescribed by persons licensed to prescribe drugs would not be applicable.

Therefore, the product described as is subject to Oklahoma sales and use tax pursuant to Section 1354 (1) (A) and Section 1402 of Title 68.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst

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IT IS OUR MISSION TO SERVE THE PEOPLE OF OKLAHOMA BY PROMOTING TAX COMPLIANCE THROUGH QUALITY SERVICE AND FAIR ADMINISTRATION