

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
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Re: Our File Number LR-08-045; Taxability of Medicare/Medicaid optical invoices

Dear

I am writing in response to your request for an official ruling on whether or not you should charge sales tax on Medicare/Medicaid (optical) invoices for doctors/customers that are charged sales tax regularly. When sold to an individual, corrective eyeglasses (eyeglass frames and lenses) are not exempt unless sold to certain disabled veterans or unless these items are reimbursed by Medicare or Medicaid. Sales to Optometrists, Ophthalmologists and Optical Stores are exempt as sales for resale provided they have a valid sales tax permit

Pursuant to Section 1357(34) of Title 68 O. S. sales of tangible personal property or services are exempt from sales tax when made to persons who have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard, and who have been certified by the United States Department of Veterans Affairs, or its successor, to be in receipt of compensation at the one hundred percent (100%) rate for a permanent disability sustained through military action or accident or resulting from a disease contracted while in such service.¹

Section 1357.6 of Title 68 exempts sales of medical appliances, medical devices and other medical equipment [including corrective eyeglasses], durable medical equipment and mobility enhancing equipment when the item is administered or distributed by a "practitioner" or purchased or leased, by or on behalf of an individual, pursuant to a prescription or work order of a practitioner; and the item is furnished to a Medicare or Medicaid program recipient and the cost of said item will be reimbursed by Medicare or Medicaid.

However, since corrective eyeglasses are not presently reimbursed by Medicare/Medicaid, recipients of Medicare cannot purchase these items exempt from sales tax pursuant to 68 O.S. 1357.6.

¹ Section of Senate Bill 1084, effective August 25, 2006, expands the exemption to include sales for the benefit of the disabled veteran to a spouse of such veteran or to a member of the household in which the veteran resides and who is authorized to make purchases on the veteran's behalf, when such veteran is not present at the sale.

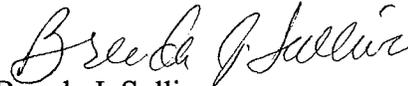
Only under the limited circumstances that eyeglasses are reimbursed by Medicare/Medicaid will Medicare/Medicaid recipients be able to purchase these items exempt from sales tax pursuant to 68 O.S. § 1357.6.²

Copies of the referenced statutory cites and applicable administrative rules are enclosed.

This response applies only to the circumstances set out in your request of January 29, 2008. 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



Brenda J. Sullivan
Tax Policy Analyst

² See Medicare & You 2008 and Oklahoma Administrative Code Title 317