

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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April 13, 2009

Re: LR-09-041: Taxability of breast implants

Dear

This is in response to your request for clarification as to whether breast implants are exempt from Oklahoma sales tax. You referenced Oklahoma Tax Commission Rule 710:65-13-171 and 710:65-13-172 (f) which provides a "nonexclusive list of prosthetic devices" that includes artificial breasts.

Please be advised that Section 1357 (22) of Title 68 exempts "sales of prosthetic devices to an individual for use by such individual." "Prosthetic device" is defined in Section 1357.6 of Title 68 as "a device which replaces a missing part of the human body...." Since a breast prosthesis does replace a missing part of the human body, it is a prosthetic device and may be purchased exempt from sales tax.

Sales of prosthetics to individuals are exempt from sales tax. However, sales of prosthetics which are not made to individuals but instead are made to a doctor or a hospital are not exempt from sales tax unless the prosthetic is dispensed to a patient and the cost is reimbursed by Medicare or Medicaid. See Commission Rules 710:65-13-170, 710:65-13-171 and 710:65-13-173.

Therefore, breast implants or artificial breasts are exempt from sales tax when purchased by an individual or for a Medicare or Medicaid recipient and are reimbursable by Medicare or Medicaid to replace a missing part of the human body.

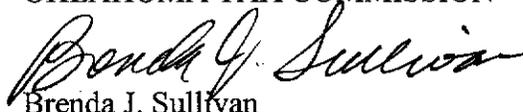
This response applies only to the circumstances discussed in your request of January 14, 2009. Pursuant to Commission Rule 710:1-3-73(e), this Letter ruling may be generally relied upon only by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and there has been no change in applicable law.

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

Sincerely,

OKLAHOMA TAX COMMISSION

A handwritten signature in cursive script, appearing to read "Brenda J. Sullivan".

Brenda J. Sullivan
Tax Policy Analyst