

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
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May 28, 2009

RE: LR-09-074
Sales Tax

I am writing this letter to your request regarding the application of sales tax for prosthetic devices sold to healthcare providers and used on Medicare or Medicaid patients.

Facts:

Based on Oklahoma Tax Commission Rule 710:65-13-173, prosthetic devices are exempt from sales tax with the following documentation:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased.
- (2) A copy of the prescription or work order; and
- (3) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

Question:

What is the required documentation to show that the person is a Medicare or Medicaid patient? Is a copy the Medicare/Medicaid card sufficient or is a copy of the payment reimbursement statement from Medicare/Medicaid which indicates the amount reimbursed required. To that end if Medicare/Medicaid reimburses less than the vendor charges for the product, is the exempt portion the sales price or the reimbursed amount?

Our Response:

The proper documentation to show that the person is a Medicare or Medicaid patient includes copies of the invoices that tie the patient to Medicare/Medicaid or other types of documentation that show that the patient was reimbursed by Medicare/Medicaid. Just a copy of the Medicaid/Medicare card is not sufficient. If the proper documentation is submitted to the Oklahoma Tax Commission, then the amount of sales tax charged by the vendor is the amount that is refunded.

Question:

If the Doctor indicates the patient is covered under Medicare/Medicaid at the time of purchase, can the vendor exempt the product at the time of sale or is the exemption always a refund?

Our Response:

The only sales of prosthetics that are exempt from sales tax are the sales that are made directly to the customer that is purchasing the prosthetic for its use as described in Oklahoma Tax Commission 710:65-13-171 (copy enclosed). All other sales that are reimbursed by Medicare/Medicaid are exemptions that must be pursued through refunds from the Oklahoma Tax Commission.

This response applies only to the circumstances discussed in your written request of March 23, 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.

Sincerely,



Oklahoma Tax Commission
Marc Morrison
Tax Policy & Research Division