

OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

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December 29, 2010

Re: LR-10-007; Sales Tax Inquiry

Dear

This is in response to your request for assistance regarding information of the application of sales and use tax on pneumatic compression devices (durable medical equipment) for the treatment of lymphedema. What follows are the pertinent facts presented in your correspondence along with the questions posed and the responses thereto.

FACTS

I represent a specialty provider of pneumatic compression devices (durable medical equipment) for the treatment of lymphedema. The sale is initiated by a prescription from the patient's doctor and the equipment is used in the patient's home. The equipment is provided to both Medicare patients and privately insured patients, such as Blue Cross/Blue Shield, Aetna, etc.

An email was sent to the Tax Assist department and they instructed us to contact you directly for this specific situation. (Copy of email attached).

Would you be so kind and assist me in ascertaining the following:

QUESTION

If taxable, what do we need to register with sales and use tax division?

The sale of tangible personal property, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1). Section 1357.6 of Title 68 of the Oklahoma statutes exempts sales of medical appliances, medical devices and other medical 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. OAC 710:65-13-173.

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

Therefore, sales of pneumatic compressions devices are exempt from sales tax when prescribed by a practitioner, sold to or purchased on behalf of a Medicare/Medicaid recipient, and are reimbursed by Medicare or Medicaid. Sales of the referenced devices in Oklahoma to privately insured individuals are subject to sales/use tax. To register with the Oklahoma Tax Commission, a completed Business Registration Packet (Packet A) available telephonically at (405) 521-3160 or online at www.tax.ok.gov should be submitted to the Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 N Lincoln Blvd., Oklahoma City, OK 73194.

QUESTION

If exempt, what documentation do we need to submit to Oklahoma in order for Oklahoma to substantiate the exempt status for our records?

RESPONSE

Please see subsection (b) of Oklahoma Administrative Code 710:65-13-173.

Copies of the referenced statutory and administration code provisions are enclosed.

This response applies only to the circumstances discussed in your request of September 28, 2009. Pursuant to Oklahoma Administrative Code 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



Brenda J. Sullivan
Tax Policy Analyst