

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

PHONE (405) 521-3133  
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August 17, 2011

Re: LR-11-045 Sales Tax Inquiry

Dear [REDACTED]

This is in response to your request for clarification regarding the taxability of several medical products and equipment listed in your correspondence and to confirm if they are considered a prosthetic device or a medical device or equipment. Set forth is the list of medical products and equipment presented and the response thereto.

- Braces – prosthetic – non-taxable
- Walking boots – prosthetic – non-taxable
- Shoe inserts – prosthetic – non-taxable
- Crutches – medical equipment – taxable
- Ropes and pulleys – medical equipment - taxable
- Theraband – medical equipment – taxable
- Putty<sup>1</sup> – medical equipment – taxable
- Casting materials – medical equipment – taxable

## RESPONSE

The sale of tangible personal property in Oklahoma, 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 exempts sales of medical appliances, medical devices

<sup>1</sup> Based on our telephone conversation of August 11, 2011, the putty refers to hand exercise putty.

and other medical equipment, prosthetic devices, durable medical equipment<sup>2</sup> and mobility enhancing equipment<sup>3</sup> when the item is administered or distributed by a practitioner<sup>4</sup> 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.

Additionally, "sales of prosthetic devices to an individual for use by such individual" are exempt from sales tax. 68 O.S. § 1357(22). Prosthetic device is defined in Section 1357.6(C) of Title 68 as follows:

The term 'prosthetic device' means a replacement, corrective or supportive device, including repair and replacement parts for same, worn on or in the body to:

- (A) Artificially replace a missing portion of the body;
- (B) Prevent or correct physical deformity or malfunction; or,
- (C) Support a weak or deformed portion of the body.

\* \* \*

Sales of the items set forth above qualify as a type of medical equipment, appliance or device as outlined in Section 1357.6 of Title 68 and 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. Moreover, braces, walking boots, orthotic shoe inserts and casting materials constitute prosthetic devices as defined by Section 1357.6(C) and under the circumstances where the sale thereof meets the parameters of the exemption in Section 1357(22) of Title 68, are exempt from sales tax.

This response applies only to the circumstances discussed in your request of March 23, 2011. 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

<sup>2</sup> Durable medical equipment means equipment including repair and replacement parts for same, which can withstand repeated use, is primarily and customarily used to service a medical purpose, generally is not useful to a person in the absence of illness or injury; and is not worn in or on the body. The term does not include mobility enhancing equipment. 68 O.S. § 1357.6(D)

<sup>3</sup> Mobility enhancing equipment means equipment, including repair and replacement parts for same, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle, is not generally used by persons with normal mobility, and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. Mobility enhancing equipment does not include durable medical equipment. 68 O.S. § 1357.6(E).

<sup>4</sup> Practitioner means "a physician, osteopathic physician, surgeon, podiatrist, chiropractor, optometrist, pharmacist, psychologist, ophthalmologist, nurse practitioner, audiologist or hearing aid dealer or fitter who is licensed by the state as required by law." 68 O.S. § 1357.6(B)