OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

PHONE (405) 521-3133
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April 12, 2012

Re: LR-11-127, Sales Tax Inquiry

Dear

This is in response to your request for a written response regarding the sales taxability of your purchases of diabetic supplies. Set forth below are the facts presented in your correspondence along with our response thereto.

FACTS

> Since I am diabetic and must use glucose tests strips to test my glucose level 4 to 6 times each day to stay within the blood glucose level required to prevent serious damage to my system. Medicare used to supply 6 test strips per day, but recently, they reduced it to 3 per day, requiring me to purchase extra strips as required. Because Medicare does not pay for the extra ones, my secondary insurance does not pay either. Today I call for a refill of my prescription and was told that Medicare said it was too soon and would not approve the refill. I told the druggist to fill the prescription for 50 strips and I would pay for them. The druggist charged me $5.75 sales tax on the sale. It seems strange to me that I can buy 100 through Medicare and pay not state sales tax but, if I pay for them I am charged. I believe the law exempts state sales tax on medical supplies.

Response

Sales of tangible personal property in Oklahoma, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, are 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 and other medical equipment administered or distributed by a practitioner[1] 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

[1] 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)

furnished to a Medicare or Medicaid program recipient and the cost of said item will be reimbursed by Medicare or Medicaid.

Sales of diabetic supplies 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. Otherwise, sales of diabetic supplies that do not meet the requirements of Section 1357.6 of Title 68 are subject to sales tax. Therefore, since your purchase of the 50 glucose test strips was not reimbursed/paid by Medicare, sales tax was properly charged thereon.

This response applies only to the circumstances discussed in your request of November 22, 2011. Pursuant to Oklahoma Administrative Code 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

Brenda J. Sullivan
Tax Policy Analyst