

STATE OF COLORADO

DEPARTMENT OF REVENUE
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GIL-2007-25

Bill Ritter, Jr.
Governor

Roxy Huber
Executive Director

XXXXXXXXXXXXXXXX
Attn: XXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

December 4, 2007

Re; Taxability of External Fixator and [name] Wire

Dear XXXXXXXX,

This letter is in response to your letters to the Colorado Department of Revenue, dated May 31 and June 15, 2007, re: taxability of External Fixators and [name] Wire. We apologize for the time it has taken to respond to your inquiry.

Issue

1. Is your external fixator products and [name] wire non-taxable therapeutic devices?

Background

Your company sells medical prosthetic, orthopedic, orthotic devices and medical instruments primarily to hospital, surgical centers and veterinarians. Your company offers a line of products generally described as external fixators. These products are devices that come in several different shapes and sizes in order to allow for the supporting of fractured arms and legs. The fixator is composed of pins screwed into the bone, and are attached to an external rod or tube that can be adjusted to various angles. The external fixators correct the deformity created by fractures and support bone during healing. They are used primarily for open fractures. The amount of time that this implant would remain attached to the body is from a couple of days to the entire period for which the injury takes to heal. You represent that a prescription for the product is part of the operative notes in the patient's file.

[name] Wire is used for small fractures and are implanted into a patient on a temporary basis. The wire protrudes through the skin to allow it to be extracted.

Discussion

1. *External fixators qualify as non-taxable therapeutic devices.*

Colorado exempts from sales and use tax therapeutic devices, equipment and related accessories which are used to correct or treat a human physical disability or surgically-created abnormality. §39-26-717, C.R.S.

The external External Fixator products qualify as therapeutic devices because they are an appliance that is used to treat or correct a human physical disability. I note that you state that you sell your products to veterinarians. The exemption, however, applies only when the appliance is sold to treat humans.

2. *[name] wires are not non-taxable therapeutic devices.*

[name] Wires do not qualify for the therapeutic appliance exemption. An “*appliance*” is defined as a piece of equipment for adapting a tool or machine to a special purpose. In order to qualify for the exemption as a therapeutic device, an item must be a piece of equipment or a mechanism. This term suggests a degree of permanence, with the capability of repeated use, as opposed to a supply item that may be used once and then discarded.” For example, a support hose, heel protector, boot cradles are therapeutic items, but do not qualify because they are not equipment. See, Department publication FYI Sales 68. The [name] Wire appears to be a simple wire. I assume it is discarded after use. The wire is not an appliance because it is not equipment and it does not have permanence and the capability of repeated use.

Finally, the Department makes a good faith effort to provide accurate and complete answers to questions posed to it by taxpayers. However, the information and answers provided here are not binding on the Colorado Department of Revenue, nor do they replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved this response.

Respectfully,

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