

STATE OF COLORADO

DEPARTMENT OF REVENUE
State Capitol Annex
1375 Sherman Street, Room 409
Denver, Colorado 80261
(303) 866-3091
FAX (303) 866-2400



GIL-2008-14

Bill Ritter, Jr.
Governor

Roxy Huber
Executive Director

XXXXXXXXXXXXXX
Attn: XXXXXXXXXXXX
XXXXXXXXXXXXXX
XXXXXXXXXXXXXX

January 16, 2008

Re: taxability of medical equipment

Dear XXXXXXXXXXXX,

This letter is in response to your letter to the Colorado Department of Revenue, dated December 18, 2007, re: the taxability of medical equipment.

Issues

You ask for guidance regarding whether the following two items are subject to sales or use tax. [Product A] medical Laser for surgical creation of bladeless LASIK flaps, which treat/cures the disabilities of nearsightedness, farsightedness, and astigmatism. In the operation of creating flaps, both with the [Product A] and traditional [Product B], there is a one-time "interface" that is integral to the delivery (in the case of a [Product B], it is a surgical blade, in the case of the [Product A], it is a milled glass in a precision housing).

Discussion

Colorado imposes sales and use tax on the sale, use, storage, or consumption of tangible personal property. §39-26-104(1)(a) and 204, C.R.S. Colorado provides a variety of exemptions which are related to medical equipment. Specifically, and insofar as relevant to your products, Colorado exempts, "all sales of drugs or materials when furnished by a doctor as part of professional services provided to a patient, and all sales of corrective eyeglasses, contact lenses, or hearing aids." See, generally, §39-26-717(1)(a), C.R.S.

However, not all medical materials are exempt. In general, medical materials that are transferred to, and leave with, the patient are exempt from sales tax. For example, exempt medical supplies include bandages, catheters, casting material and similar items. Medical materials that are used and consumed by the doctor are not exempt. For example, taxable medical materials include X-ray film, X-ray supplies, mask, surgical scalpels and other similar materials.

The medical materials you identified do not appear to be exemptions for the equipment you identified. These are items that are used and consumed by the doctor and do not leave with the patient. In the absence of an exemption, the company must pay sales tax when it acquires the equipment, or use tax if it acquires the equipment out-of-state.

For a general discussion of exemptions related to medical equipment, see Department publication FYI Sales 68 (Medical and Dental equipment and Supplies). You can view this and other valuable tax information relating to sales and use tax by visiting our web site at: www.revenue.state.co.us and go to Taxation > FYIs > Sales Tax.

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,

Steve Asbell
Taxpayer Service Division
Phone 303.866.3889
Email sasbell@spike.dor.state.co.us