

STATE OF COLORADO

DEPARTMENT OF REVENUE
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John W. Hickenlooper
Governor

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GIL-13-012

April 18, 2013

XXXXXXXXXXXXXXXXXX
ATTN: XXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Sutures and IV Catheters

Dear XXXXXXXXXXXX,

You submitted on behalf of your client ("Company") a request for guidance to determine whether sutures and IV catheters that may not leave a hospital with a patient are exempt from Colorado sales and use tax.

The Department issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues and is not binding on the Department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the Department but not on the taxpayer, and requires payment of a fee. For more information about general information letters and private letter rulings, please see Department regulation 24-35-103.5 at www.colorado.gov/revenue/tax > Tax Library > Rulings.

The Department initially treats your request as one of a general information letter. If you would like the Department to issue a private letter ruling on the issues you raise, you can resubmit a request and fee in compliance with regulation 24-35-103.5. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not a determination of the tax consequence of any particular action or inaction.

Issue

Are sutures and IV catheters that do not leave the hospital with a patient exempt from Colorado sales and use tax?

Background

Company is a non-exempt hospital. Licensed providers who work at Company apply sutures and IV catheters as part of certain medical procedures. Some sutures dissolve in the body, some remain permanently in the body and others are removed after several days.

The suture's primary purpose is to aid in the healing process, similar to a bandage. The Insyte Autoguard Shielded IV Catheter by Becton Dickinson is used on patients during procedures. After the procedure, the IV catheters are removed and disposed of at the hospital. Neither sutures nor IV catheters are separately billed on patient invoices.

Discussion

Colorado exempts a number of medical supplies from state and state-administered sales and use taxes.¹ Specifically, and insofar as relevant to your products, Colorado exempts "all sales of nonprescription drugs or materials when furnished by a licensed provider as part of professional services provided to a patient."²

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. The sutures outlined in the ruling request appear to be similar in nature to bandages and casts because they leave the hospital with the patient and are furnished by a licensed provider as part of their professional service. Whether the sutures dissolve in the body, remain permanently or are removed after several days does not change the outcome that the sutures leave with the patient and, therefore, qualify for the exemption.

Medical materials that are used and consumed by the licensed physician are not exempt from Colorado sales or use tax. For example, taxable medical materials include X-ray film, X-ray supplies, mask, surgical scalpels and other similar materials. As a further example, the materials used to remove sutures are not exempt from Colorado sales and use tax because those instruments are used and consumed by the licensed physician during the procedure to remove the sutures.

Additionally, the IV catheters you identified do not appear to qualify as material furnished by a licensed provider because the IV catheters do not leave the facility with the patient, and the IV catheters appear to be used and consumed by the licensed physician as part of their professional service to the patient. In the absence of an exemption, Company must pay sales tax when it acquires the equipment, or use tax if it acquires the equipment out-of-state.

Miscellaneous

This letter represents the good faith opinion of Department personnel who are knowledgeable on state taxes issues. However, the Department does not make a specific determination here on any of the issues raised and the Department is not bound by this general information letter.

¹ §39-26-717, C.R.S.

² §39-26-717(1)(k), C.R.S.

The Department administers state and state-administered local sales and use taxes. This letter does not address sales and use taxes administered by home-rule cities and home-rule counties. You may wish to consult with local governments which administer their own sales or use taxes about the applicability of those taxes. Visit our web site at www.colorado.gov/revenue/tax for more information about state and local sales taxes.

Enclosed is a redacted version of this letter. Pursuant to statute and regulation, this redacted letter will be made public within 60 days of the date of this letter. Please let me know in writing within that 60 day period whether you have any suggestions or concerns about this redacted letter.

Sincerely,

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