Hospitals and Other Medical Facilities

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PREFACE

This publication is intended to help you understand California's sales and use tax law as it applies to hospitals and similar institutions.

The guidelines discussed in this publication are applicable to all hospitals, and medical facilities regardless of ownership, except those operated by the federal government.

If you cannot find the information you are looking for in this booklet, please visit our website at *www.boe.ca.gov* or contact our Taxpayer Information Section at 1-800-400-7115. See page 24 for other information resources.

For general information about sales and use taxes, your obligations as a holder of a seller's permit, how to file tax returns, and registration requirements for other tax and fee programs administered by the Board of Equalization (BOE), please see our publication 73, Your California Seller's Permit. It includes information on obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, and discontinuing a business; and keeping records. Ordering information is found on page 24.

We welcome your suggestions for improving this or any other tax tip publication. You may write to:

Audit and Information Section MIC:44
State Board of Equalization
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Note: This publication summarizes the law and applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, the decision will be based on the law and not on this publication.

To contact your Board Member, see *www.boe.ca.gov/members/board.htm*.

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WHO SHOULD READ THIS PUBLICATION?

This publication is designed for hospitals and other medical service facilities, as they are defined in Regulation 1503, *Hospitals and Other Medical Service Facilities, Institutions and Homes for the Care of Persons* (see list below). It may also be useful to medical supply companies and other members of the medical care industry. This publication does not apply to institutions that are operated by the federal government.

In general, the following institutions are covered by this publication:

- A *health facility* as defined in section 1250 of the Health and Safety Code. A *health facility* also includes "clinic" as defined in sections 1200 and 1200.1 of the Health and Safety Code. The facility must hold a license as required by section 1253, or it must be exempt from the requirement to hold such a license, as allowed by subdivision (a) of section 1270 of the Health and Safety Code.
- A *community care facility* as defined in section 1502 of the Health and Safety Code. The facility must hold a license as required by section 1508 of the code, or it must be a residential facility selected by a licensee, as provided for in section 1506, and used exclusively for the reception and care of persons placed by such licensee; or it must be exempt from the license requirement, as allowed by subdivision (f) of section 1505 of the code.
- A *residential care facility for the elderly* as defined in section 1569.2 of the Health and Safety Code. The facility must hold a license as required by section 1569.10 of the code, or it must be exempt from the license requirement, as allowed by section 1569.145 of the code.
- An *alcoholism or drug abuse recovery or treatment facility* as defined in section 11834.02 of the Health and Safety Code, which holds the license required by section 11834.30 of the code.
- Any house, retirement home, or similar establishment supplying board and room for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age and older. The term "exclusively" is defined to mean that no more than four persons under 62 years of age are in residence during any calendar quarter.
- Any housing that primarily serves older persons and is financed by state or federal programs.
- A surgery center or other medical or psychological outpatient health facility including such facilities where patients remain for less than 24 hours.

For information on how to order or download Regulation 1503, please see page 24. For questions regarding definitions used in the Health and Safety Code, please contact the California Department of Public Health.

GENERAL APPLICATION OF TAX

Hospitals and other medical service facilities are predominantly service enterprises for tax purposes and are generally considered consumers, rather than retailers, of tangible personal property. As consumers, hospitals will generally pay tax to their suppliers or use tax directly to the BOE for purchases of property, other than for exempt purchases of medicines (see page 2, "Does tax apply to my purchases?"). However, when hospitals and other medical service facilities act as retailers of tangible personal property, as described below, they are required to file returns and report and pay tax on their sales to patients and other purchasers.

Does tax apply to my sales?

When you are the retailer of tangible personal property, you are required to report and pay tax unless an exemption applies—for example, under certain conditions, sales of medicines, as defined in Regulation 1591, *Medicines and Medical Devices,* are exempt from tax, as are other sales described later in this publication. If you lease property to patients, the lease may be considered a taxable sale (see page 15).

Assuming that an exemption does not apply, you are a retailer and are liable for tax when:

- You furnish property for a charge to persons other than patients or residents.
- You make a separately itemized charge for property to patients or residents that intend to remove the property from the premises of the medical facility for use by the patient (for example, solar shield glasses for a patient who will have an outpatient procedure and the patient or the insurance company receives a copy of the itemized bill).
- Your contract with the patient, resident, or other customer specifically provides that title to the tangible personal property passes to the patient, resident, or other customer.

Examples of taxable sales

In general, you must report and pay tax on the following transactions:

- Cafeteria and snack bar sales (see page 13).
- Coin-operated vending machine sales, including hot or cold food products (see page 14).
- Sales of meals and guest trays to employees, medical staff, and visitors (see page 13).
- Sales of property other than medicines (see page 4) that are intended to be used after the patient has left the hospital (for example, a cast boot to a patient when he or she checks out of the hospital, when you make a separately itemized charge).
- Gift shop, bookstore, and newsstand sales (see page 15).
- Miscellaneous retail sales of:
  - Metal scrap, dietary waste, used X-ray film and so forth
  - Equipment, furniture and fixtures (see page 16)

Examples of nontaxable sales

In general, tax does not apply to charges for the following transactions:

- Patient services, including room and general nursing services.
- Meals and food products (including hot prepared food products) provided to patients and outpatients by institutions, including food provided to patients by way of enteral feeding, Total Parenteral Nutrition (TPN) and Intradialytic Parenteral Nutrition (IDPN) (see page 13).
- Medicines subject to exemption (see next chapter).
- Sales to the U.S. Government under Part A of the Medicare Act (see page 17, "Medicare Payments").
- Whole blood or blood plasma sold by a blood center or blood bank (see page 12).

- Miscellaneous charges:
  - Educational programs, such as tuition from nursing schools.
  - Research and other special purpose grants, including grants, gifts, or subsidies specified by the donor for research or educational programs.
  - Rental of space in hospitals, clinics and schools of nursing and rentals of rooms to employees and others.
  - Recovery of charges for personal telephone calls.
  - Statutory fees received as a result of service of a subpoena duces tecum for copies of medical records (see page 16).

Does tax apply to my purchases?

You should normally pay an amount for tax to your suppliers for purchases of property you consume. In general, this includes:

- Property you use in your business operations, such as office supplies.
- Property you provide to patients in connection with performing your services.

However, you do not need to pay tax on your purchases of:

- *Medicines whose sales are exempt.* For these purchases, you should submit a tax exemption certificate to your supplier (see pages 21-22). Otherwise, your supplier will generally collect an amount for tax.
- *Property other than medicines that you will resell and report and pay tax on when it is resold.* For these purchases, you should submit a resale certificate to your supplier (see pages 22-23). Otherwise, your supplier will generally collect the tax.

In some cases, your supplier will not collect an amount for tax because the sale of the item is not subject to tax, such as sales of certain food products. Or, you may purchase an item from an out-of-state supplier who does not collect California tax.

Note: If you do not pay tax to your supplier, you could still be liable for California use tax on your purchase. If you do pay tax to your supplier and resell the item before you use it, you could be eligible for a deduction on your return. See pages 3 and 19 for more information.

Examples of purchases subject to tax

Listed below are special items and categories of items that are taxable when purchased by hospitals and other medical service facilities. Generally, these are items that are consumed by hospitals and other medical service facilities, and include items you may provide to patients with your services.

- Hospital beds, microscopes, X-ray equipment, apparatus, instruments, contrivances or other mechanical, electronic, optical or physical equipment or articles or the component parts and accessories thereof.
- Reusable dinnerware, silverware, and cooking utensils.
- Stationery, business supplies, forms, and so forth.
- Housekeeping supplies including bedding.
- X-ray film and related supplies used in producing diagnostic X-rays (except for cosmetic purposes, see page 11).
- Chemicals and supplies used in laboratories and other diagnostic centers within hospitals—for example, electrocardiology (see page 11).
- Educational supplies used in conjunction with educational programs.
- Articles such as splints, bandages, pads, compresses, supports, dressings, and other items not considered to be medicines which are administered. Hospitals and other medical service facilities are consumers of these articles even when separate charges for the articles are made and no other charges are identified as a charge for the administration of the article (see page 10).
- Supply items such as disposable drapes or surgeons' gloves used in surgery.

Examples of purchases not subject to tax

In general, tax does not apply to your purchases of the items listed below. As noted on pages 21-22, for some purchases you must submit an exemption certificate or a California resale certificate to your supplier; otherwise, your supplier will generally collect tax.

- Medicines (see next chapter).
- Meals and food products that are consumed by patients or residents and furnished or served by medical service facilities, including food provided by way of enteral feeding, Total Parenteral Nutrition (TPN) and Intradialytic Parenteral Nutrition (IDPN).
- Disposable items (nonreusable) that become components of meals or food products furnished or served, such as straws, paper napkins, plastic utensils, paper plates, and items used to dispense enteral feeding (TPN and IDPN)— including needles, syringes, cannuals, bags, tubing, filters, locks, tape, clamps, and connectors which are an integral to the tubing (see page 14).
- Carbonated beverages, distilled spirits, beer, and wine to be furnished or served as components of patient meals (see page 13).
- Diagnostic substances or preparations intended for use by external or internal application to the human body and furnished by the hospital laboratory, X-ray laboratory, or other diagnostic unit (see page 11).
- Items that are going to be resold in a gift shop, bookstore or newsstand, pharmacy or vending machine such as:
  - Medicines whose sales are not specifically exempt and sundry products.
  - Food, soft drinks and other items to be resold through vending machines (see page 14).

Other tax issues related to sales and purchases

If I do not pay California tax on a purchase, can I be held liable for use tax?

Yes. If you purchase tangible personal property without payment of tax and do not make a sale of the property or it does not qualify for an exemption, you generally must report and pay use tax based on the purchase price.

You may not have paid tax to a supplier because you submitted a resale certificate for your purchase, or you may have purchased the property from an out-of-state seller who did not collect California tax.

> *Example:* You purchase office supplies from an out-of-state retailer who does not collect California use tax. Since you will not be selling the supplies (you are a consumer of them), you must report the use tax.
>
> To report your tax liability, enter your costs for the items on your sales and use tax return under "Purchases Subject to Use Tax."

If I pay tax to my supplier and later make a taxable sale of the item, can I take a deduction for the tax I paid?

"Tax-paid purchases resold" deductions

If you pay tax to a supplier on an item that you later sell and report tax on, you are entitled to a "tax-paid purchases resold" deduction so long as you did not use the property prior to resale, and the deduction is claimed in the same period in which the sale was made.

You can receive credit for your tax payment by deducting your cost for the items. Enter the amount paid, exclusive of tax, on Line 10(b) of your tax return, "COST OF TAX PAID PURCHASES RESOLD PRIOR TO USE."

Note: If you pay sales tax reimbursement to a supplier on a purchase of an exempt medicine that you do not resell, you cannot take a "COST OF TAX PAID PURCHASES RESOLD PRIOR TO USE" deduction. You must request a refund from the supplier (see page 20).

MEDICINES, MEDICAL SUPPLIES AND PRODUCTS

The exemptions described in this chapter are those that generally apply to hospitals and other medical service facilities. If you would like information on other exemptions (such as sales in interstate commerce or donations to qualified nonprofit organizations), you may download or order a copy of publication 61, Sales and Use Tax Exemptions and Exclusions. *Please see page 24 for information on how to order or download this material.*

Taxability of Medicines and Other Medical Products

The discussion of medicines and medical products taxability is divided into the categories listed below. As noted in the following pages, sales of some items are specifically exempted from tax, while others are exempt based on how they are used.

- Medicines
- Insulin syringes (see page 8)
- Balloon catheters and other catheters (see page 8)
- Wheelchairs, crutches, canes, quad canes, and walkers (see page 9)
- Continuous passive motion machines (see page 9)
- Medical oxygen delivery systems/continuous positive airway pressure (CPAP) systems (see page 9)
- Medical kits (see page 9)
- Biologics (see page 9)
- Breast Implants (see page 9)
- Collagen/Dermal Implants (see page 10)

Medicines

Sales of medicines, as defined, are exempt from tax when sold or furnished under the specific conditions listed on the next page.

> *"Medicines" means and includes any product fully implanted or injected in the human body, or drug or biologic, that has been approved by the U.S. Food and Drug Administration to diagnose, cure, mitigate, treat or prevent any disease, illness or medical condition. (The complete definition of medicines can be found in Regulation 1591. Please see page 24 for more information on how to order or download the regulation.)*

The following pages provide examples of items that are defined as medicines. It should be noted that orthodontic, prosthetic, auditory, ophthalmic, and ocular devices and appliances do not qualify as medicines for tax purposes unless they are specifically included in the definition of medicines, as summarized in this section.

To be exempt, medicines must be sold or furnished under the following conditions (some exceptions are noted later).

The medicine must be:

- Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law, or
- Furnished by a licensed physician and surgeon, dentist or podiatrist to his or her own patient for treatment of the patient, or
- Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist or podiatrist, or
- Sold to a licensed physician and surgeon, dentist, podiatrist or health facility for the treatment of a human being, or

- Sold to the State of California or any political subdivision or municipal corporation thereof for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof, or
- In the case of hemodialysis products, supplied on order of a licensed physician and surgeon to a patient by a registered pharmacist or by a manufacturer, wholesaler, or other supplier authorized by section 4054 or 4059 of the Business and Professions Code to distribute such products directly to hemodialysis patients, or
- Furnished by a pharmaceutical manufacturer or distributor without charge to a licensed physician, surgeon, dentist, podiatrist, or health facility for the treatment of a human being, or to an institution of higher education for instruction or research. Such medicine must be of a type that can be dispensed only: (a) for the treatment of a human being and, (b) pursuant to prescription issued by persons authorized to prescribe medicines. This exemption applies to the constituent elements and ingredients used to produce the medicines and to the tangible personal property used to package such medicines.

The following are included in the definition of *medicines:*

Drugs, preparations, and similar substances

Any substance or preparation that is intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and is commonly recognized as intended for such use.

Examples:

- Alcohol 70%
- Anesthetic gases
- Antibiotics
- Baby lotions, oil, and powder
- Bone cement
- Chemical intrauterine contraceptive devices
- Enemas (nonreusable)
- Food provided by internal feeding
- Gelfoam (sponge)
- Hermostat, surgical cellulose
- Hydrogen peroxide
- Impregnanted gauze and dressings
- Lubricating jelly
- Oral contraceptives
- Oxygen
- Radioactive pellets
- Skin staples and preloaded disposable skin staplers
- Sterile nonpyrogenic distilled water
- Surgical soap
- Sutures
- Total Parenteral Nutrition (TPN)
- Intradialytic Parenteral Nutrition (IDPN)

Articles permanently implanted in the human body

Articles permanently implanted in the human body *to assist* in the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.

An item is considered to be permanently implanted if its removal is not anticipated.

Examples:

- Bone screws and pins
- Dental implant systems, including dental bone screws and abutments
- Ear implants
- Implanted defibrillators and implanted leads
- Implanted artificial sphincters
- Pacemakers
- Permanently implanted catheters
- Testicular gel implants
- Tendon implants

Sutures are included in this category, whether or not they are permanently implanted. A nonreturnable, nonreusable needle fused or prethreaded to a suture is regarded as part of the suture. With specific exceptions, items that

replace, rather than assist, the functioning of, all or part of a natural organ, artery, vein, or limb, are excluded from the definition of medicines. Suture strips are considered a bandage and are excluded from the definition of medicines, and are therefore, taxable.

Artificial limbs and eyes

Artificial limbs and eyes or their replacement parts, including stump socks and stockings worn with artificial legs and intraocular lenses for human beings.

Orthotic devices

Orthotic devices and their replacement parts designed to be worn on the person as a brace, support, or correction for the body structure. Excludes orthodontic devices.

Orthotic devices include:

- Abdominal binders
- Ace bandages
- Ankle braces
- Anti-embolism stockings
- Arm braces
- Casts and cast components
- Cervical supports
- Cervical traction devices
- Clavicular splints
- Elbow supports
- Head halters
- Neck collars
- Pelvic traction devices
- Postoperative knee immobilizers
- Postsurgical corsets
- Rib belts and immobilizers
- Rupture holders
- Sacral belts
- Sacrolumbar back braces
- Shoulder immobilizers
- Slings
- Stump shrinkers
- Trusses
- Wrist braces

Orthotic devices and their replacement parts do not need to be furnished by a registered pharmacist to be considered as dispensed on prescription, provided they are furnished pursuant to the written order of a physician or podiatrist. For example, orthotic devices furnished according to a written order of a physician or podiatrist by—but not limited to—medical device retailers, clinics, physical therapists, intermediate care facilities, or other such persons or institutions are deemed to be dispensed on prescription.

Note: Orthopedic shoes and supportive devices for the foot.

Orthotic shoes and support devices for the foot are not exempt unless they are:

- Custom-made biomechanical foot orthosis, or
- An integral part of a leg brace or artificial leg.

The term "custom-made biomechanical foot orthosis" means a device that is made on a positive model of the individual patient's foot. The model may be individually constructed from suitable model material such as plaster of paris, stone, or wax, and may be manually constructed or fabricated using electronic technology.

In more general terms, a "custom-made biomechanical foot orthosis" means a foot orthosis which moves the osseous bones in the foot to a position in which the correct or ideal positioning of the patient's ankle joint in relation to the leg is obtained. A podiatrist must generally perform numerous tests to determine this position for each patient. Once the desired position is determined, the podiatrist makes a mold of the foot and sends a prescription to an orthotic lab. Following the doctor's instructions, the lab makes adjustments to the mold by adding or removing materials, and then makes an orthotic from the corrected mold.

An arch support does not qualify as a custom-made biomechanical foot orthosis.

Prosthetic devices

Prosthetic devices and their replacement parts when designed to be worn on or in the patient to replace or assist the functioning of a natural part of the human body. Excludes air compression pumps and pneumatic garments, noninvasive temporary pace makers, vacuum/constriction devices used to treat male impotency, auditory, ophthalmic, and ocular devices and dental prosthetic devices and materials, such as dentures, bridges, crowns, caps, inlays, and artificial teeth.

Examples of prosthetic devices that qualify as medicines when worn on or in the patient include:

- Acetabular cups
- Atrial valves
- Breast tissue expanders (beginning February 25, 2004)
- Cervical cuff
- Cranioplastic kits
- Dacron grafts
- Femoral component, polycentral type, total knee
- Finger joint prosthesis
- Heart valve
- Nerve cups
- Orbital implant
- Rhinoplasty prosthesis
- Skin staples
- Mammary prostheses (see below)
- Skull plates
- Tissue expanders (beginning February 25, 2004)
- Urinary incontinent devices

Prosthetic devices also include:

- Bags and tubing, as well as filters, locks, tape, clamps, and connectors which are integral to the tubing used to dispense enteral feeding to the patient, including gastrostomy tubes, jejunostomy tubes, and nasogastric tubes.
- Needles, syringes, cannulas, bags, and tubing, as well as filters, locks, tape, clamps and connectors which are integral to the tubing, each of which is used to dispense TPN or IDPN to the patient.

Prosthetic devices and their replacement parts do not need to be furnished by a registered pharmacist to be considered as dispensed on prescription, so long as they are furnished pursuant to the written order of a physician or podiatrist.

Note: Volumetric infusion pumps are not included unless the pump is used with a kidney dialysis machine.

Drug infusion devices

Programmable drug infusion devices to be worn on or implanted in the human body which automatically cause the infusion of measured quantities of a medicine into the body.

Mammary prostheses

Bras to hold a mammary prosthesis in place, filler pads, adhesive spray and remover, and lymphedema arm sleeves.

Ostomy appliances and supplies

Exempt sales of medicines include sales of any appliances and related supplies that are required as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste. In order for these items to be considered medicines, they must be used in postoperative situations or sold as an accommodation to patients. If they are used as an adjunct to surgical procedures, purchases or sales of these items would be subject to tax, unless the appliances remain in the patient for postoperative purposes.

The term "natural waste" is not limited to that type of waste eliminated from the body by its natural function. It is also meant to cover situations where trauma fluid or exudate is removed from the human body.

Examples of ostomy appliances and supplies include:

- Adhesive spray and remover
- Antacid used externally as a skin ointment
- Catheters used as a result of any artificial opening created in the human body
- Closed or drainable stoma bags
- Colostomy bags
- Deodorant used on the patient
- Karaya rings
- Loop ostomy supplies
- Nonallergenic paper tape and gauze
- Skin bond cement
- Skin gel
- Tincture of benzoin applied topically as a skin protective
- Tubing
- Urinary drainage appliances

The mammary prostheses devices and ostomy appliances and related supplies do not need to be furnished by a pharmacist to be considered dispensed on prescription—so long as they are furnished pursuant to a written order of a person authorized to prescribe.

Kidney Dialysis Machines. "Ostomy appliances" and "related supplies" include kidney dialysis machines, replacement parts for the kidney dialysis machines, and the catheters, dialysis fluid additives, volumetric infusion pumps, tubing, blood sets, fistula sets, and shunts used in connection with such machines. To qualify as a "related supply," an item must be a necessary and integral part of the machine itself, or a substance or preparation intended for external or internal application to the patient undergoing dialysis.

Antiseptic cleansers/scrubs used by hospital personnel

Items such as antiseptic surgical cleanser/scrub applied by hospital personnel to their own bodies to benefit the patient and which constitutes a critical component of the patient's treatment.

Insulin syringes

Tax does not apply to sales of insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes, as directed by a physician.

Tax does not apply to the sale of glucose test strips and skin puncture lancets furnished by a pharmacist, as directed by a physician, that are used by a diabetic patient to determine his or her own blood sugar level for the patient's use in treating diabetes. The furnishing of these items by a person other than a pharmacist is taxable, even when the glucose test strips and lancets are furnished by a health facility or administered by hospital staff.

Balloon catheters and other catheters

Balloon catheters

Sales of intra-aortic balloon pump catheters and coronary angioplasty balloon catheters are not subject to tax. However, sales of related supplies are subject to tax. The term "related supplies" includes, but is not limited to, coronary guiding catheters, coronary guide wires, guide wire introducers, sheath introducer systems, torquing devices, hemostatic valves, inflation devices, and syringes.

Other catheters

Sales of catheters are generally taxable, with three major exceptions:

1. Catheters which are permanently implanted are nontaxable when they assist the functioning of a natural organ, artery, vein, or limb and remain or dissolve in the body.
2. Catheters which are used for drainage purposes through artificial openings are nontaxable as ostomy materials and supplies.
3. Catheters or other types of drainage devices used for drainage through natural openings are nontaxable as prosthetic devices designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body.

Catheters may also be exempt if they are an integral and necessary part of another exempt item.

Wheelchairs, crutches, canes, quad canes, and walkers

Tax does not apply to sales, including leases that are "sales," of wheelchairs, crutches, canes, quad canes, white canes used by the legally blind, and walkers and replacement parts for these devices—when sold to a patient as directed by a licensed physician.

Electric three-wheel scooters that are similar in both design and function to a conventional electric wheelchair, also qualify for exemption when sold or leased to an individual for the personal use of that individual as directed by a physician or surgeon.

Note: Health maintenance organizations (HMOs): See also page 20, "HMOs and Charges for the Use of Durable Medical Equipment."

Continuous passive motion (CPM) machines

Electrically powered apparatuses are often worn on the ankle, knee, hip, or finger to stimulate healing of tissues. Since they are designed to assist the functioning of a natural body part, they are considered exempt orthotic devices when fully worn on the body. Sales or leases of CPM machines to patients are not taxable when sold or furnished according to a written order of a physician or podiatrist. (See discussion of written orders on page 20 under "Prescriptions".)

Medical oxygen delivery systems

Tax does not apply to the sale or use of medical oxygen delivery systems when sold or leased to an individual for the personal use of that individual under the direction of a licensed physician.

In general, tax applies to sales of medical oxygen delivery systems to hospitals, immediate care facilities, or other health care providers for use on their premises in the same manner as other sale of tangible personal property.

The term "medical oxygen delivery systems" includes liquid oxygen containers, high pressure cylinders, regulators, oxygen concentrators, tubes, masks, cylinder carts for ambulating, cylinder stands, and related items necessary for the delivery of oxygen to the person. It also includes repair and replacement parts for use in such a system.

Continuous positive airway pressure (CPAP) equipment sold or leased to individuals for the treatment of a sleep disorder such as sleep apnea, may also be nontaxable as a medical oxygen delivery system. CPAP equipment continuously supplies a small amount of pressure to the user's airway, as distinguished from similar devices that only assist the patient in breathing and do not deliver air or oxygen directly into the patient's lungs. Devices that only assist the patient's breathing process and, as such, do not deliver air or oxygen directly into the patient's lungs, are subject to sales tax.

Medical kits

Because medical kits often consist of both medicines and administration equipment, the exempt charges for the medicine should be segregated from the taxable charges. Regardless of the percentage value of the exempt portion of the sale, the charges for the medicines are exempt while the charges for the remainder of the kit are taxable.

Biologics

Botox®, Botox® Cosmetics, and similar biologics approved by the U.S. Food and Drug Administration (FDA) to diagnose, cure, mitigate, treat or prevent any disease, illness or medical condition are medicines regardless of how the products are used.

Breast Implants

Breast implants are approved by the U.S. Food and Drug Administration for both reconstructive and cosmetic surgeries. Breast implants are considered medicines regardless of the type of surgery performed (reconstructive or cosmetic).

Collagen/Dermal Implants

Collagen and similar products are classified by the FDA as medical devices and generally require FDA approval. Restylane can be used to either correct scarring or correct the appearance of lines and wrinkles from aging. Restylane is considered an exempt medicine regardless of its ultimate use.

Items excluded from the definition of medicines

The term "medicines" *does not include the items listed below* (this list *is* not all-inclusive). Consequently, sales and purchases of these items are generally taxable.

- Orthodontic, auditory, ophthalmic or ocular devices or appliances. (However, see also page 6, "Artificial Limbs and Eyes," for examples of specifically exempted items.)
- Dentures, removable plates, fixed permanent bridges and permanently implanted artificial teeth (except dental implant systems, including dental bone screws and abutments—see page 5), crowns, caps, inlays and other prosthetic materials and devices.
- Articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, arch supports, cervical pillows, exercise weights (boots or belts), orthopedic shoes and supportive devices (unless they are a "custom-made biomechanical foot orthosis" or an integral part of a leg brace or artificial leg), plastazote inserts, plastazote shoes, plastic shoes (custom or ready-made), sacroease seats, shoe modifications, spenco inserts, traction units (unless they qualify because of how they are worn), or thermophore pads.
- Hospital beds, including specialized or therapeutic beds.
- Any alcoholic beverage the manufacture, sale, purchase, possession or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9, commencing with Section 23000, of the Business and Professions Code).
- Bathroom equipment, nebulizers, trapeze bars, patient hydraulic lifts, IV stands and restraints, bone fracture therapy devices, and hand exercise equipment.
- Specially designed hand utensils, grooming and dental aids, eating and drinking aids, shampoo aids and household aids.
- Glucose meters, non-insulin syringes.
- Condoms and diaphragms.

SPECIFIC HOSPITAL AND OTHER MEDICAL FACILITY DEPARTMENTS AND PROGRAMS

Laboratories (including x-ray, electrocardiology, and so forth)

Taxability of laboratory charges

Hospital laboratory charges are generally for professional services and are not subject to tax. However, charges related to cosmetic procedures may be subject to tax, as explained below.

Cosmetic procedures. You are considered a retailer and must report and pay tax on charges for photographs and x-ray films related to "cosmetic" procedures, which includes any surgery to improve a patient's appearance by plastic restoration, by removal of blemishes, and so forth. You should separately state the prices for taxable products from nontaxable products on your billings.

Application of tax to laboratory purchases

Hospital laboratories are generally consumers of tangible personal property used in their operations. As consumers, they will generally pay sales tax reimbursement to their suppliers for their purchases of such property. However, tax does not apply to purchases of:

> *Exempt Medicines.* Only those testing products that are administered in the living body *(in vivo)* qualify as exempt—products such as radiopaques, opaques and dyes, glucose tolerance test substances. Testing products that are applied outside the living body *(in vitro)* and in an artificial environment—such as clinitest tablets, acetest tablets, and litmus paper do not qualify as exempt medicines.
>
> *X-ray film used for cosmetic procedures (see "cosmetic procedures" above).* You may issue a resale certificate to your supplier for x-ray film that will be used for cosmetic procedures. In these transactions, the patient is regarded as the consumer of the x-ray film, and you must pay tax on your sale of the film to the patient.

Optical Departments

Typically, in a hospital operating an optical department, a registered dispensing optician fills prescriptions prepared by physicians, surgeons or optometrists. In these situations, the hospital is the consumer of ophthalmic materials, including eyeglasses, frames, lenses or their replacement parts. A hospital is also the consumer of lenses and frames furnished as duplications or replacements of parts of eyeglasses or contact lenses which were previously prescribed by a physician and surgeon or optometrist. As the consumer, the hospital will generally pay tax reimbursement to their vendor when they purchase these items (if not, the hospital is liable for use tax on the purchase).

Note: Sales of nonprescription eyewear (such as noncorrective sunglasses or noncorrective colored contact lenses) are taxable. In these instances, the hospital is the retailer of ophthalmic materials and tax applies to their sale. Sales of such lenses are taxable, whether sold by a pharmacist, physician, optometrist or optician. The hospital may issue a resale certificate to its vendor for these purchases (see pages 22-23).

Pharmacies

Tax does not apply to purchases by a pharmacy, or sales by a pharmacy, of exempt medicines, as described in the previous chapter. The exempt status of "medicines" is not affected if it is dispensed to inpatients or outpatients.

If a hospital pharmacy distributes items that do not qualify as "medicines" to hospital wards for staff use (other than items directly administered to the patients), the pharmacy will owe use tax based on their purchase price for those items if the pharmacy purchased the items for resale or from an out-of-state supplier who did not collect California sales or use tax. Use tax is paid by reporting the purchase price on of the sales and use tax return.

Replacement contact lenses. Tax does not apply to pharmacists' sales of replacement contact lenses if they are dispensed under a prescription prepared by a physician, surgeon, or optometrist. Similar to optometrists and dispensing opticians, pharmacists who fill replacement contact lens prescriptions prepared by a physician, surgeon, or optometrist are considered the consumer of the lenses. As the consumer, pharmacists must pay tax on their purchases of lenses when they buy them.

Note: Sales of nonprescription lenses are taxable whether they are sold by a pharmacist, physician, optometrist or optician.

Gift shop. If your pharmacy also operates a gift shop, please see page 15 for guidelines regarding the application of tax to those sales. You may also want to request copies of the following publications: 73, *Your California Seller's Permit*, and *27, Drug Stores*, for more information on such sales (see page 24 for information on how to order or download these publications).

Blood Centers/Banks

Section 33 of the Revenue and Taxation Code provides that sales of human blood and blood plasma are exempt from taxation. Tax does not apply to the sale or use of any container used to collect or store human whole blood, plasma, blood products, or blood derivatives that are exempt from taxation pursuant to section 33. The exemption also applies to blood collection units and blood pack units.

Blood pack units generally consist of a plastic bag or bags, disposable tubing, and a needle. Blood collection units may include a needle, multiple bags, a bag of saline solution, tubing, filters, grommets, a plastic bowl containing a stainless steel centrifuge and a pooling bag. Sales of these blood collection and pack units are not taxable even if the tubing, needles, filters, etc. are discarded and not sold together with the blood.

Visiting Nurse Programs

If your hospital has a visiting nurse program (when personnel provides services to patients at their homes), your sales of medicines under that program are generally nontaxable, since the medicines are considered to be furnished by a "health facility," as defined in Regulation 1591(a)(4)(B), *Medicines and Medical Devices.* If the patient is provided with an itemized bill, the visiting nurse program is the retailer of any supply item used on or provided to the patient—and tax applies to those items not specifically exempted as provided for in other sections of this publication.

FOOD SERVICE TRANSACTIONS

The following information explains how tax applies to your hospital food service operations. For additional information on this subject, we recommend that you obtain a copy of publication 22, Dining and Beverage Industry, *or Regulation 1603,* Taxable Sales of Food Products. *See page 24 for information on how to order or download this material.*

Taxability of Food and Beverage Sales—In General

In general, sales of food and beverages are subject to tax when tables, chairs, or counters are provided or food is sold on trays, glasses, dishes or other nondisposable tableware provided by the hospital or other medical facility (such as food sold in a cafeteria, restaurant, or snack bar operated by the hospital or other medical facility). Despite their disposable packaging, sales of food and beverages served in disposable containers are subject to tax when the food and beverage is for consumption on the premises. Beverages and cold food products sold a' la carte may not be taxable when sold on a "to go" basis.

Sales of hot food and edible nonfood items such as alcoholic and carbonated beverages are taxable no matter where they are sold (see exceptions for patient and student meals below).

Patient meals

Meals (including hot prepared food products) supplied or sold to patients or residents are exempt when sold or supplied by hospitals or other medical facilities. The exemption for patient meals is not affected by a food contractor serving the meals or by selling the meals to a hospital or other medical facility which serves them. The exemption also applies to outpatients while they are in the hospital or other medical facility. However, sales of guest trays to visitors are not exempt as patient meals.

Sales of carbonated beverages, beer and wine when served by the hospital as *part of the patient's meal,* regardless of whether a separate charge is made, are considered exempt.

The term "meals" also includes food provided to patients by way of enteral feeding, including Total Parenteral Nutrition (TPN) and Intradialytic Parenteral Nutrition (IDPN).

Student meals (hospital schools)

Meals and food products (including hot prepared food products) sold to students who are enrolled in a school operated by a hospital or other medical facility are not subject to tax. For this exemption to apply, the meals or food products must be furnished, prepared or served for consumption at tables, chairs, or counters or from trays, glasses, dishes or other tableware. This exemption does not apply to meals served to student volunteers, student nurses, interns, and so forth, unless they are enrolled at the school operated by the hospital or other health facility.

The exemption for student meals only applies when meals and food products are sold to students *by schools.* The exemption generally does not apply if a caterer or independent food contractor sells meals directly to the students. However, independent food contractors or caterers will qualify for the exemption if the contract and records with the school show that all of the following conditions are met:

- The facilities used to serve meals to the students are used by the school for other purposes;
- The fixtures and equipment used to prepare and serve the meals are owned and maintained by the school; and
- The students purchasing the meals cannot distinguish between the independent contractor or caterer and the employees of the school.

Items sold with meals

Sales of carbonated beverages, beer and wine when sold for a single price as part of the student's meal are considered nontaxable.

Nonreusable items—such as napkins, straws, disposable dinnerware, paper or foam plates or bowls, disposable drink cups, isolation trays, paper covers for cups, and plastic wrap—are considered to be included in the price for the food or beverage. Consequently, you can purchase these items without tax by issuing a resale certificate to your vendor. Items which are reusable—such as china, silverware, glasses, and so forth—are not considered sold with a meal and tax must be paid when purchased (or if purchased from an unregistered out-of-state retailer reported under "Purchases Subject to Use Tax" of your sales and use tax return).

Items used to dispense enteral feeding, TPN, or IDPN—such as bags, tubes, filters, tape, clamps, and connectors, are also considered nonreusable items that become components of the meals. (See Regulation 1503 (a)(2)(C)).

Disposable menus used by patients to order meals are not component parts of meals. Consequently, you must generally pay tax reimbursement when you purchase those items (or if purchased from an unregistered out-of-state retailer reported under "Purchases Subject to Use Tax" of your sales and use tax return).

Coin-operated machines

Commissions received from vending machine operators who have placed vending machines on your premises are not subject to tax.

Some hospitals and other medical facilities, however, operate their own vending machines. If you operate your own vending machines, you are generally required to report tax on a portion of all food product sales, including sales of beverages, hot prepared food products, candy and candy-coated gum (excluding bulk vending machine sales). In a store, sales of cold food products and individual hot drinks to go are generally exempt from sales tax. However, the sale of those items through a vending machine is partially taxable. For more information about how to report these sales, please request a copy of Regulation 1574, *Vending Machine Operators.* For an explanation of how to calculate tax, see publication 118, *Selling Food in Vending Machines.* See page 24 for information on how to order or download this material.

OTHER SALES

Equipment Rentals and Leases

In general, when you rent equipment to patients, you are acting as a leasing company and must:

- Pay tax to your vendor when you purchase the item, or
- Collect use tax from the lessee based on rental receipts, or
- Timely elect to report and pay use tax based on your purchase cost for the equipment (this must be done in the reporting period in which the equipment is first placed into rental service).

Tax must be paid based on rental receipts if (1) you did not pay tax to the vendor at the time of purchase, or (2) you did not report and pay use tax based on your purchase cost in the reporting period when the equipment was first placed into rental service, or (3) you rent the equipment in a form that is substantially different from the form in which you acquired it.

Exceptions

Tax does not apply to leases of equipment considered to be medicines under the Sales and Use Tax Law (for example, tax does not apply to leases of kidney dialysis machines to patients). Tax may not apply to leases of wheelchairs, crutches, canes, quad canes, walkers, CPM machines, and medical oxygen delivery systems. See page 9 for more information.

For additional information, please read Regulation 1660, *Leases of Tangible Personal Property—in General,* and publication 46, *Leasing of Tangible Personal Property in California*. See page 24 for information on how to order or download this material.

Gift Shops, Bookstores, and Newsstands

Generally, gift shop, bookstore and newsstand sales of tangible personal property are subject to tax, even if the store is operated by auxiliaries or other volunteer organizations (see next section). Typical nontaxable items sold by gift shops include candy, gum, confection, and other cold food products.

Note: **Carbonated beverages are not considered food products;** sales of these beverages are subject to tax.

Volunteer Organizations (Auxiliaries)

Generally, volunteer organizations working in conjunction with hospitals organize and perform volunteer work in the hospital. In many instances, hospital volunteer organizations will operate the gift shop, snack bar, or other operation where retail sales are made. Contrary to a common belief, there is no general exemption from sales tax on sales made by nonprofit organizations. Generally, if a volunteer organization operates a retail selling operation either within or outside the hospital, it is required to obtain a seller's permit, collect sales tax on retail sales, and file sales tax returns.

Volunteer organizations may also be involved in fundraising activities such as charity dinners and auctions. Sales of tangible personal property are generally taxable even if the items sold are donated and the proceeds benefit a charitable cause. For more information, please request a copy of our publication 18, *Nonprofit Organizations*. See page 24 for more information on how to download or order publication 18.

Thrift stores benefiting individuals with HIV and AIDS

Through December 31, 2011, tax does not apply to certain thrift stores' sales of used clothing, household items, or other retail merchandise benefiting individuals with HIV and AIDS. A nonprofit organization must operate the thrift store to raise funds that will be used to provide medical, hospice, or social services for individuals chronically ill with HIV or AIDS. The organization operating the thrift store must:

- Spend at least 75 percent of the store's net revenues providing the medical, hospice, or social services described above, *and*
- Be exempt from state income tax under section 23701d of the Revenue and Taxation Code.

For more information, please request a copy of publication 18, *Nonprofit Organizations*. See page 24 for more information on how to access or order publication 18.

Sales of Capital Assets

Since hospitals are predominantly service enterprises, sales of capital assets used in the performance of hospital services, such as hospital beds or medical equipment, are generally considered occasional sales and are not subject to tax. If, however, the hospital makes more than two of these asset sales for substantial amounts in any 12-month period, the gross receipts from the first two sales are exempt occasional sales, but the gross receipts from third and subsequent sales during any 12-month period are subject to tax, unless otherwise exempt.

Note: Hospitals or other health facilities that operate a retail department such as pharmacy, gift shop, cafeteria, or snack bar as adjuncts to the hospital or other health facility, must report tax on the sale of fixtures and equipment used in the operation of these businesses. For example, the sale of display counters and cash registers located in a gift shop would be taxable. For further information, see Regulation 1595, *Occasional Sales—Sales of a Business—Business Reorganization.* See page 24 for more information on how to order or download Regulation 1595.

Photocopies of Medical Records

Hospital or other medical facility sells photocopies to requesting party

You are generally required to pay tax on sales of photocopies of medical records unless you are required by law to furnish copies of such records. For example, you are not required to report and pay tax on your charges if the photocopies are furnished to the patient, or to someone acting on behalf of the patient, or to the patient's representative, as provided in California Health and Safety Code section 123110(b).

Likewise, you are not required to report and pay tax if you are required to provide photocopies in response to a written authorization or subpoena duces tecum presented by an attorney or the attorney's representative as provided in California Evidence Code sections 1158 and 1563.

These fees remain nontaxable if a photocopying service makes and sells the copies to you to resell to the requesting party.

Transcriptions of medical reports. Tax does not apply to a separately stated charge for providing a typewritten transcription of a medical report or an interpretation of the contents of a medical record; however, tax applies to the fair retail value of any photocopies produced for a customer in connection with these nontaxable services.

Photocopying service sells photocopies to requesting party

If a copying service, by agreement with the hospital or other health facility, makes photocopies of medical records, furnishes them directly to the requesting party, and bills the requesting party directly for the copies, the charges are taxable.

For additional information see Regulation 1528, *Photographers, Photocopiers, Photo Finishers and X-Ray Laboratories.* See page 24 for more information on how to download or order Regulation 1528.

OTHER TAX ISSUES

How Payment Sources—Such as Insurance, Medi-Cal, and Medicare Payments—Affect Tax Liabilities

Insurance company payments

There is no effect on the application of tax to a sale if payments are made by an insurance company. Such payments are treated as though they had been made directly by the patient.

Medi-Cal payments

As with insurance payments, Medi-Cal payments are treated as though the payment was made directly by the patient. They do not affect the application of tax.

Medicare payments

Part A payments

Tax does not apply to the sale of property if payment for the property is made under Part A of the Medicare Act. Under Part A, you, the healthcare provider, have a contract with the U.S. government to provide certain services. Therefore, sales of medicines, devices, appliances, and supplies in which payment is made under Part A qualify as an exempt sale to the U.S. government.

As explained on pages 1 and 2, hospitals and medical facilities are generally consumers of the property they provide to patients in connection with medical services. Accordingly, no deduction may be taken as a sale to the U.S. government when hospitals and medical facilities are consumers of the property. Hospitals and other medical facilities owe tax on their purchase of consumable items.

Note: **Deductions for "Sales to the United States Government."** If your sale is already exempt (such as, the sale of an exempt medicine), a second deduction is not allowed for Sales to the U.S. government. In addition, since Medicare reimburses for a reasonable cost, only amounts actually received from the government are allowable under this deduction.

Part B payments

Sales made under Part B of the Medicare Act do not qualify as exempt sales to the U.S. government. Under Part B, the hospital or other medical facility does not have a contract with the U.S. government. The contract is between the patient and the U.S. government, and unless the sale is otherwise exempt, (such as the sale of an exempt medicine), the hospital or other medical facility must report and pay tax on the transaction.

Research Grants

You may receive funding from government or private sources to initiate or continue research in the development of cures or treatments for human illnesses or diseases. You are the consumer of all equipment and supplies used for such research. As a consumer, you will generally pay tax to your supplier (see exception below). If you purchase from an out-of-state vendor that does not collect tax, you will be liable for the use tax and you must report the purchase price on your return under "Purchases Subject to Use Tax."

Exception—property purchased for the U.S. government. Tax does not apply to your purchase of property used for research if you purchase the property for the U.S. government and title to the property passes to the government *prior* to use.

Recordkeeping

You are required to keep business records so that BOE representatives can:

- Verify the accuracy of your sales and use tax returns.
- Determine if tax is due when a return has not been filed.

Your records must include:

- The normal books of account, which can include information stored on computers.
- Documents of original entry (bills, receipts, invoices, job orders, contracts, or other documents supporting the entries in the books of account).
- All schedules or working papers used to prepare tax returns.

You should also retain resale and exemption certificates and any other information needed to substantiate exemptions and deductions.

You must keep records pertaining to sales and use tax liabilities for a period of four years unless the BOE gives written authorization for their earlier destruction. If your records are being audited by the BOE, you should retain all records for the period being audited until the audit is completed.

Prescriptions

Prescriptions must be retained by in-house pharmacies to support exemptions for sales of prescription medicines. A valid prescription must contain:

- Name, address, and signature of the prescriber
- Prescriber's license classification
- Name and address of the patient
- Name and quantity of the drug or device prescribed
- Directions for use
- Date of issue

Items "deemed to be dispensed on prescription"

As noted in the second chapter, some items, when sold by a pharmacist as directed by a physician, are "deemed" to be dispensed on prescription. The following information is needed for such sales:

- Name of purchaser
- Name of doctor
- Date of sale
- Item sold
- Selling price

Reimbursement for Sales Tax

Although you are required to pay and report sales taxes to the BOE, you may be reimbursed by the purchaser for the amount of tax you owe on a sale. For example, if you are required to pay $10.00 in sales tax, you may pass that cost on to the purchaser, provided it is agreed to as part of the sale. It is presumed that the customer agrees to pay the addition of tax if:

- You list a separate amount for sales tax reimbursement on your receipts or invoices; or
- You post a sign on your premises stating that sales tax reimbursement will be added to all prices of taxable merchandise, or make a similar statement on price tags, advertising material, and other printed material directed to the purchaser; or
- The sales agreement specifically calls for the addition of sales tax reimbursement.

If you include sales tax reimbursement in your prices, rather than itemizing it separately on your invoices or receipts, you must inform the buyer that tax is included. You can post this information at your premises in a location that is visible to purchasers; or you can include it on a price tag or in an advertisement (whichever is applicable). Use one of the following statements:

- All prices of taxable items include sales tax reimbursement computed to the nearest mill; or
- The price of this item includes sales tax reimbursement computed to the nearest mill.

Deductions and Exemptions

Sales for resale

You may sell or trade in equipment or sell supplies to others who intend to resell the merchandise. You must obtain a valid resale certificate from the purchaser to document the sale as nontaxable. For more information on the acceptance or use of resale certificates, see publication 73, *Your California Seller's Permit,* and publication 103, *Sales for Resale*. Please see page 24 for more information on how to access or order these publications.

Tax-paid purchases resold

If you have paid an amount for sales or use tax on a purchase and make a taxable sale of the property prior to using it, you can take a deduction on your return to recover the tax amount paid. When you report the sale, enter your cost (purchase price excluding tax) for the item under "Cost of Tax-Paid Purchases Resold Prior to Use."

Bad debts

If you have reported and paid tax on a sale and have been unable to collect payment, you may claim a bad debt deduction. The deduction can only be taken for the amount of taxable sales, excluding any applicable tax, and excluding any fees for uncollectible accounts or bad checks. The bad debts must be written off for income tax purposes, or, if you are not required to file income tax returns, they must be written off in accordance with generally accepted accounting principles.

Note: There are many rules that govern deductions for bad debt losses. Please see page 24 for more information on how to download or order a copy of Regulation 1642, *Bad Debts*.

Other common deductions and exemptions

As explained in other parts of this publication, certain hospital and other medical facilities' sales are not subject to sales and use tax. You may take a deduction on your sales and use tax return for these sales, including:

- Prescription medicines (see pages 4-10)
- Certain food products (see pages 13-14)
- Sales to the U.S. government (see "Medicare Payments," page 17)

APPENDIX

Prescription Defined

To be exempt from tax, medicines sold by pharmacists and others must generally be prescribed by a licensed physician for the treatment of a patient or be furnished or provided in another manner prescribed by law as noted in the chapter, *Medicines, Medical Supplies and Products.*

Prescription means an oral, written, or electronic transmission order that is issued by a physician, dentist, optometrist, or podiatrist licensed in this state and written for a specific individual. The order must include the following:

A. The name or names and address of the patient or patients.
B. The name and quantity of the medicine or medical device prescribed and the directions for use.
C. The date of issue.
D. Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.
E. A legible, clear notice of the conditions for which the medicine or medical device is being prescribed, if requested by the patient or patients.
F. If in writing, signed by the prescriber issuing the order.

HMOs and Charges for the Use of Durable Medical Equipment

Health Maintenance Organizations (HMOs) that operate hospitals and clinics often provide durable medical equipment, such as wheelchairs, walkers, and so forth, at no cost to members when ordered by a physician. If the HMO hospital *retains ownership of the property* (even if the patient does not return the property), the hospital is the consumer of the property. As the consumer, the hospital cannot purchase the equipment with an exemption certificate. Tax will generally apply to the hospital's purchase.

Filing a Claim for Refund

If you have paid sales tax reimbursement or use tax to a supplier, or accrued and reported use tax directly to the BOE on a purchase that is not subject to tax, a claim for refund may be filed for these amounts. However, it is important to note that, as a purchaser, the proper method of filing a claim for refund depends on whether the overpaid tax is either sales tax reimbursement paid to a supplier or use tax paid to a supplier or accrued and paid directly to the BOE.

Refund of sales tax

When you pay sales tax reimbursement to a supplier on a purchase of an item that you believe is exempt or excluded from tax, you must file a claim for refund with the supplier from whom the property was purchased. The supplier may then file a claim for refund with the BOE. If you file a claim for refund of sales tax reimbursement paid to a supplier directly with the BOE, it will be denied.

Refund of use tax

When you accrue and report use tax directly to the BOE on a purchase of an item that you believe is exempt or excluded from tax, you may file a claim for refund directly with the BOE. If use tax was paid to a supplier rather than directly to the BOE, you have the option of filing a claim for refund directly with the BOE or filing a claim for refund with the supplier who may then file a claim for refund with the BOE on your behalf.

Filing deadlines

It is very important to note that any claim for refund must be filed with the BOE in the proper time frame. Therefore, if you are filing a claim for refund of sales tax reimbursement, the claim must be filed with the BOE by the supplier by the filing deadline. Whichever of the following dates occurs *last* is the filing deadline:

- Three years from the due date of the return on which the tax was reported and paid.
- Six months from the date you overpaid tax.
- Six months from the date a determination (billing) became final.
- Three years from the date we collect a payment through the use of a levy, lien, or other enforcement procedure.

How to file a claim for refund

A claim for refund must be in writing. You may either use BOE-101, *Claim for Refund or Credit,* or write your own letter. Your claim must state *all* of the following:

- The specific reasons for the claimed overpayment of tax.
- The amount of the overpayment, including interest and penalty. If you are not yet sure of the actual amount, you may file for an unspecified amount. If possible, please break down your total overpayment into state, local, and district tax amounts (specify the district or districts).
- The reporting period or periods for which you paid too much tax. Your claim can cover more than one reporting period.

You must sign and date your claim. Please remember to include your phone number so that BOE staff may contact you if there is a need.

Exemption Certificates

When purchasing medicines whose sales are exempt (as defined on pages 4-10), you should issue an exemption certificate as provided in Regulation 1667, *Exemption Certificates.* You can also use an exemption certificate to purchase items that may be considered medicines depending on their use, such as ostomy appliances (see pages 7-8) and catheters (see page 8).

Your supplier should not apply tax to your purchase if you submit a properly completed certificate. The proper use of an exemption certificate at the time of the transaction can prevent the need to file a claim for refund at a later date.

No specific form of the certificate is required; however, the certificate must contain the following information:

- The name and address of the purchaser.
- The number of the seller's permit held by purchaser (if the purchaser is not required to hold a permit, a notation should be entered to that effect, explaining the reason a permit is not required).
- A description of the property to be purchased.
- The date of the document.
- The signature of the purchaser or someone approved to act on his or her behalf.
- A statement explaining how the property will be used to make the sales tax inapplicable to the sale.

A suggested format is provided on page 22. This sample may be reproduced.

TAX EXEMPTION CERTIFICATE

_____
(Name of Purchaser)

_____
(Address of Purchaser)

I HEREBY CERTIFY:

That I hold a valid seller's permit number _____
_____ issued pursuant to the Sales and Use Tax Law. I am a Health Facility under provisions of section 6369 of the California Revenue and Taxation Code; I further certify that the property described below purchased from

_____
(Name of Vendor)

will be used for the treatment of human beings as provided by Regulation 1591 of the California State Board of Equalization. Description of property to be purchased:

Date: _____ 20 _____

_____
(Signature of Purchaser or Authorized Agent)

_____
(Title)

Resale Certificates

As noted on page 3, you can submit a resale certificate to your supplier to purchase property, other than medicines, that you will resell and report and pay tax on. If you submit a properly completed resale certificate, your supplier will not charge tax.

A suggested format is provided on the next page. This sample may be reproduced.

BOE-230 (7-02)
GENERAL RESALE CERTIFICATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

California Resale Certificate

I HEREBY CERTIFY:

1. I hold valid seller's permit number: _____

2. I am engaged in the business of selling the following type of tangible personal property:

   _____

3. This certificate is for the purchase from _____ of the item(s) I have listed in paragraph 5 below.
   [Vendor's name]

4. I will resell the item(s) listed in paragraph 5, which I am purchasing under this resale certificate in the form of tangible personal property in the regular course of my business operations, and I will do so prior to making any use of the item(s) other than demonstration and display while holding the item(s) for sale in the regular course of my business. I understand that if I use the item(s) purchased under this certificate in any manner other than as just described, I will owe use tax based on each item's purchase price or as otherwise provided by law.

5. Description of property to be purchased for resale:

   _____

   _____

   _____

6. I have read and understand the following:

   For Your Information: A person may be guilty of a misdemeanor under Revenue and Taxation Code section 6094.5 if the purchaser knows at the time of purchase that he or she will not resell the purchased item prior to any use (other than retention, demonstration, or display while holding it for resale) and he or she furnishes a resale certificate to avoid payment to the seller of an amount as tax. Additionally, a person misusing a resale certificate for personal gain or to evade the payment of tax is liable, for each purchase, for the tax that would have been due, plus a penalty of 10 percent of the tax or $500, whichever is more.

NAME OF PURCHASER

SIGNATURE OF PURCHASER, PURCHASER'S EMPLOYEE OR AUTHORIZED REPRESENTATIVE

PRINTED NAME OF PERSON SIGNING	TITLE
ADDRESS OF PURCHASER	
TELEPHONE NUMBER ( )	DATE

FOR MORE INFORMATION

For additional information or assistance with how the Sales and Use Tax Law applies to your business operations, please take advantage of the resources listed below.

TAXPAYER INFORMATION SECTION
1-800-400-7115
TTY:711

Customer service representatives are available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays. In addition to English, assistance is available in other languages.

FIELD OFFICES

City	Area Code	Number
Bakersfield	1-661	395-2880
Culver City	1-310	342-1000
El Centro	1-760	352-3431
Fairfield	1-707	427-4800
Fresno	1-559	440-5330
Irvine	1-949	440-3473
Norwalk	1-562	466-1694
Oakland	1-510	622-4100
Rancho Mirage	1-760	770-4828
Redding	1-530	224-4729
Riverside	1-951	680-6400
Sacramento	1-916	227-6700
Salinas	1-831	443-3003
San Diego	1-858	385-4700
San Francisco	1-415	356-6600
San Jose	1-408	277-1231
Santa Rosa	1-707	576-2100
Van Nuys	1-818	904-2300
Ventura	1-805	677-2700
West Covina	1-626	480-7200

Out-of-State Field Offices

Chicago, IL	1-312	201-5300
Houston, TX	1-281	531-3450
New York, NY	1-212	697-4680
Sacramento, CA	1-916	227-6600

INTERNET
www.boe.ca.gov

You can log onto our website for additional information—such as laws, regulations, forms, pu*blications*, and policy manuals—that will help you understand how the law applies to your business.

You can also verify seller's permit numbers on the BOE website (look for "Verify a Permit/ License") or call our toll-free automated verification service at 1-888-225-5263.

Multilingual versions of publications are available on our website at *www.boe.ca.gov.*

Another good resource—especially for starting businesses—is the California Tax Service Center at *www.taxes.ca.gov.*

FAXBACK SERVICE

Our faxback service, which allows you to order selected publications, forms, and regulations, is available 24 hours a day. Call 1-800-400-7115 and choose the fax option. We'll fax your selection to you within 24 hours.

TAX INFORMATION BULLETIN

The quarterly Tax Information Bulletin (TIB) includes articles on the application of law to specific *types of* transactions, announcements about new and revised publications, and other articles of interest. You can find current and archived TIBs on our website at *www.boe.ca.gov/news/tibcont.htm.* Sign up for our BOE updates email list and receive notification when the latest issue of the TIB has been posted to our website.

FREE CLASSES AND SEMINARS

Most of our statewide field offices offer free basic sales and use tax classes with some classes offered in other languages. Check the Sales and Use Tax Section on our website at *www.boe.ca.gov* for a listing of classes and locations. You can also call your local field office for class information. We also offer online seminars including the Basic Sales and Use Tax tutorial and how to file your tax return that you can access on our website at any time. Some online seminars are also offered in other languages.

WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if we determine that we gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

Please visit our website at*: www.boe.ca.gov/info/email.html* to email your request. Email encryption allows us to provide a safe and secure way of transmitting confidential information electronically. Instructions for registering and receiving encrypted emails is posted to our website. You may also send your request in a letter to: Audit and Information Section, MIC:44, State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0044.

TAXPAYERS' RIGHTS ADVOCATE

If you would like to know more about your rights as a taxpayer or if you have not been able to resolve a problem through normal channels (for example, by speaking to a supervisor), please see publication 70, *Understanding Your Rights as a California Taxpayer,* or contact the Taxpayers' Rights Advocate Office for help at 1-916-324-2798 (or toll-free, 1-888-324-2798). Their fax number is 1-916-323-3319.

If you prefer, you can write to: Taxpayers' Rights Advocate, MIC:70; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0070.

Regulations, forms, and publications

Lists vary by publication

Selected regulations, forms, and publications that may interest you are listed below. A complete listing of sales and use tax regulations, forms, and publications appears on the BOE website. Multilingual versions of our publications and other multilingual outreach materials are also available at *www.boe.ca.gov/languages/menu.htm*.

Sales and Use Tax Regulations

1503 *Hospitals and Other Medical Service Facilities, Institutions and Homes for the Care of Persons*
1528 *Photographers, Photocopiers, Photo Finishers, and X-Ray Laboratories*
1574 *Vending Machine Operators*
1591 *Medicines and Medical Devices*
1591.1 *Specific Medical Devices, Appliances, and Related Supplies*
1591.2 *Wheelchairs, Crutches, Canes, and Walkers*
1591.3 *Vehicles for Physically Handicapped Persons*
1591.4 *Medical Oxygen Delivery Systems*
1592 *Eyeglasses and Other Ophthalmic Materials*
1595 *Occasional Sales—Sale of a Business—Business Reorganization*
1602 *Food Products*
1603 *Taxable Sales of Food Products*
1614 *Sales to the United States Government and Its Instrumentalities*
1660 *Leases of Tangible Personal Property—In General*
1667 *Exemption Certificates*
1668 *Sales for Resale*
1698 *Records*
1700 *Reimbursement for Sales Tax*

Transactions (Sales) and Use Tax Regulations

1821 *Forward*

Publications

17 *Appeals Procedures: Sales and Use Taxes and Special Taxes (S)*
18 *Nonprofit Organizations (S)*
22 *Dining and Beverage Industry (K, S)*
27 *Drug Stores*
44 *District Taxes (S)*
46 *Leasing of Tangible Personal Property in California*
51 *Guide to Board of Equalization Services (C, K, S, V)*
61 *Sales and Use Taxes: Exemptions and Exclusions*
70 *Understanding Your Rights as a California Taxpayer (C, K, S, V)*
73 *Your California Seller's Permit (C, F, K, S, V)*
76 *Audits (F, K, S)*
102 *Sales to the U.S. Government (S)*
110 *California Use Tax Basics (S)*
112 *Purchases from Out-of-State Vendors (S)*
116 *Sales and Use Tax Records (S)*
118 *Vending Machine Food Sales*

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