

**300.0000 HOSPITALS, INSTITUTIONS AND HOMES FOR THE CARE OF PERSONS—  
Regulation 1503**

*Medical gases, exemption certificates for, see also Prescription Medicines.*

**300.0006 Billing Methods.** When a hospital sends a bill to a patient and to the patient's insurer, it is the bill sent to the patient that is relevant in determining whether the hospital is the retailer or the consumer under Regulation 1503. 5/28/93. (Am. 2003-3).

(Note: Changes to Regulation 1503, effective June 1, 2001, replaced the "administered vs. nonadministered" concept with the new procedures specified in subdivision (b)(2).)

**300.0006.875 Central Supply Items.** There are specific circumstances where a particular item can be self consumed when used in a certain manner by hospital employees or doctors and sold at retail at other times. Examples are: diapers used in nurseries by nurses may be self consumed whereas diapers provided to parents upon discharge of a newborn would be sold at retail. Other examples are sanitary pads, sanitary belts, adult diapers, and infant diapers. 4/30/92.

**300.0007.200 Central Supply Items—Self-Consumed.** The following items are consumed by doctors or nurses during surgery or other procedures to maintain a sterile bacteria and germ free operating environment although most of the items appear to be disposable. Title, possession, and control of these items never passes to a patient.

Q-Tips (not sent home with the patients)

¾ sheet (surgical drape)

Scrub brush used by surgical nurse to prepare incision site

Sponge Kerlix (sterile dressing)

Isolation masks

Disposable hair clip (used by nurse or doctor to remove hair from patients wound during procedure)

Fluffs (sterile dressing)

Exam glove worn by doctor or nurse when performing procedures and/or treating a patient.

Surgeons glove (used during surgery or for other tactile contact)

Pad elbow/pr (placed under patient's elbows and heels during surgery)

Sponge prep (used by nurse to wash patient prior to surgery or other procedure.

Blanket

Towel disp

Drape zimmer

Sheet disp

Scalpel disp

Bk table cover

Mayo cover

Goion disp

Sleeve disp

Cover X-ray

Cover scope

Cover vidrape

Lap sponges

Raytec sponges

Neuro sponges

Arm drape

Basin disp or sheet disp

Bottle disp

Sheet extremity

Ioban drape

Laser drape

Micro laser drape

Drape hip

Morgan lens (a contact-style lens with a tube attached used by a doctor or nurse for irrigating the eye)

Blankets

Disposable needles

Bedpan fracture (used with a patient with severely limited activity and also serves as a container for output measure)

Urine collector (used to obtain sample for measurement, chemical testing, or fluid retention monitoring)

Chux which are plastic-lined pads placed on hospital beds, etc., as a form of disposable bedding and placed under various parts of a patient's body to gather fluids and catch debris. Use requires professional or technical services or nurses to examine and weigh them to determine the amounts of body fluids discharged for purposes of treatment and diagnoses.

Alternate birthing pads (placed on birthing bed to keep birth area relatively clean to catch body waste and fluids for observation and measurement.)

Bedpans and urinals

Thermometers and thermometers covers (covers are plastic sheathes which cover the sensors of computerized, reusable thermometers.)

Peri-bottles. 4/30/92.

**300.0008 Child Care and Housing Facility.** A food service company was engaged to provide meals at a state child care and housing facility where children, faculty and staff receive meals free of charge.

Assuming the state child care and housing facility qualifies as an “institution” under Regulation 1503(a), the sales of meals and food products which are furnished to the children, faculty, and staff who reside at the facility are exempt from tax. Under Regulation 1603(m), the exemption for meals applies only to meals furnished to residents of the institution. Staff who reside in the facility as part of their jobs qualify as “residents.”

On the other hand, the food service company is the retailer of meals which it serves and the facility is the consumer of the meals, food and drinks which are furnished free of charge to non-resident children, faculty and staff. Accordingly, the food service company must report and pay tax on the sales of such meals to the facility. 1/24/92.

**300.0010 Condominiums and Homeowner Associations.** A condominium or homeowner’s association which serves meals in a common dining area is not considered to supply “room and board” as required in Regulation 1503 so as to qualify as a house or institution supplying room and board for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age or older. 11/21/79.

**300.0035 Empty I/V Container, Enema Bags and Syringes.** Hospitals purchase empty intravenous solution containers and empty enema bags. In both cases, a pharmacist or nurse prepares or compounds the contents which are exempt medicines. The customer is customarily charged for the intravenous solution or enema preparation.

Sales or use tax applies to the hospital’s purchases of empty intravenous solution containers and enema bags because there is no sale of the containers with the medicine to the patient. Such containers are part of a hospital’s medicine handling system and never leave the hospital’s possession until they are thrown out by the hospital. As such, the hospital is the consumer of such containers and tax will apply to the sales to the hospitals. This same analysis also would apply to syringes. 3/2/82.

**300.0040 Food Service Contractor.** Section 6363.6 of the Revenue and Taxation Code, exempts the sale or use of meals served to residents or patients of an institution as defined in the section, regardless of whether a food service contractor serves the meals or sells them to an institution which serves them. No tax applies as to the sale to or use by the institution or to the sale to or use by the residents or patients if the meals are served to the residents or patients. 9/26/68.

**300.0050 Gaseous Oxygen Storage Tanks.** A hospital has two storage tanks for gaseous oxygen that are part of a storage unit set in place, with a back-up storage unit for emergencies. The gas storage tanks are referred to as “vessels” to distinguish them from the portable gas “cylinders”. The hospital questions its supplier collecting tax measured by the rental payments.

The application of tax to leases of vessels is different than the application of tax to leases of cylinders. Large items such as vessels are considered to be fixtures. In this case, the supplier is leasing fixtures and has elected to pay use tax measured by the rental payment. Thus, the supplier (lessor) must collect tax at the time the hospital makes the rental payments. This opinion applies only to the taxation of the leases of the vessels. It does not apply to charges for the gaseous oxygen itself. 4/8/91; 5/3/91.

**300.0054 Hospital Charges to Patients.** Charges to patients for items of tangible personal property which either are not “administered” or for which a separate administration charge is made constitute retail sales. This is the case whether the payments made are based on the specific amount of service or quantity

of property provided or a “flat rate” based on a pre-approved schedule of services (e.g., a per capita rate, a per diem rate, etc.).

In instances where the hospital provides administration of property and no separate charge is made, the hospital is the consumer.

If the hospital maintains a tax paid inventory, a tax-paid purchases resold deduction is allowable in cases where the hospital makes a separate charge for nonadministered items or makes a separate charge for administration of administered items.

In those instances where billings to insurance companies are subject to a “contract allowance” whereby it is understood that the amount paid will be less than the amount billed, the unpaid amount is a discount to be taken at the time of the transaction, not a bad debt to be taken later. 5/23/88. (Am. 2003–3).

(Note: Changes to Regulation 1503, effective June 1, 2001, replaced the “administered vs. nonadministered” concept with the new procedures specified in subdivision (b)(2).)

**300.0055 Hospitals.** When a hospital makes a charge for property administered to a patient and no separate identifiable charge for administration is made, the charge for the property is deemed to include the administration and the hospital is the consumer of the property. Hospitals whose billing policy is to furnish patients with nonitemized summary billings of nonadministered items are the consumers of such items, even though the patient may request and receive a separately itemized billing of such charges. Conversely, if the policy is to provide itemized billings for such property, the hospital is the retailer of the items furnished even if a summary billing is also furnished. The type of bill received by an insurer is of no consequence unless the insured patient receives no bill from the hospital, in which case the same distinction made for patient billings applies to the insurer’s billings. 5/1/86. (Am. 2003–3).

(Note: Changes to Regulation 1503, effective June 1, 2001, replaced the “administered vs. nonadministered” concept with the new procedures specified in subdivision (b)(2).)

**300.0065 Meals Furnished Employees Residing at House or Institutions.** For purposes of section 6363.6(c), a house or institution will be considered a principal residence exclusively for persons 62 years of age or older even though some employees who are under the age of 62 years of age are also provided rooms and meals. In such circumstances, the residents, as opposed to employees, are still exclusively over 62 years of age and therefore the requirements of section 6363.6(c) will be considered to have been met. Tax will apply to the sale or consumption of meals served to the employees. 8/12/81.

**300.0070 Menus.** Menus purchased for use in a hospital’s dietary department do not qualify for exemption under Regulation 1503 as a nonreusable item which “become components of meals or food products . . . furnished or served to residents or patients.” 1/29/75.

**300.0080 Out-Patient and Day Care Patients.** The exemption provided by section 6363.6 applies with respect to meals served by hospitals to bona fide out-patients and day care patients while they are in the hospital. 10/18/68.

**300.0120 Reports.** The taxability of a hospital’s charges to insurance companies for a summary of the medical care and treatment of a patient depends upon whether the hospital personnel use their technical or professional skills in the preparation of such reports, such as making decisions on what should go on such reports, on evaluating the reports, or otherwise exercising judgment in the preparation of the reports. If so, the charges are not taxable. But if the operation amounts to merely copying or duplicating the desired reports, the transaction would be taxable as a sale of tangible personal property. 2/21/64.

**300.0124 Retirement Home.** Some but not all of the residents of a retirement home which qualifies as an institution under Regulation 1503(a)(3) are required to eat their meals at the home. The cost of the meals is included in the monthly fee. Meals are optional for other residents. The meals provided to those who pay a single monthly fee for room and board are exempt from tax. 8/25/94.

(Note: Section 1503(a)(3) is section 1503(a)(4) as the result of amendments adopted June 20, 1995.)

**300.0130 Sale of Supply Items to the U.S. Government (Medicare).** Hospitals furnish tangible personal property to their patients in connection with medical care. There are several factors relevant to determining whether the hospital is the consumer of the property so furnished or the retailer. (See Annotation 300.0134 for a discussion of these factors.) One of the relevant factors is whether the hospital separately itemizes its charges for the tangible personal property on its bill for hospital care. It is the bill the hospital sends to the patient that is determinative, regardless of whether the patient pays the bill directly or the patient's insurer pays the bill: statements that the hospital may issue to the insurer are not relevant.

When a hospital issues an itemized billing to the patient, the hospital may be regarded as the retailer of certain tangible personal property as discussed in Annotation 300.0134. However, if the hospital does not provide the patient (whether a direct pay patient or one whose insurer will pay the hospital's bill) with billing showing itemized charges for nonadministered tangible personal property, the hospital is the consumer of such property.

Medicare now requires hospitals to use a specific format when submitting bills to be paid by Medicare, and that format does not involve sending an itemized billing to either Medicare or the patient. However, the Medicare regulations do not forbid the hospital from sending the patient a completely itemized statement, and thus do not prevent the hospital from being regarded as the retailer of nonadministered tangible personal property if that is what it wishes. If so, the hospital must send to the patient an itemized billing with separate charges for such property. 11/25/91.

**300.0134 Supplies—Sold or Consumed.** Hospitals are primarily service providers who consume tangible personal property used in rendering their services. However, hospitals may also be regarded as selling certain tangible personal property where the hospital makes a separate charge for the property and title or possession of the property passes to the patient. (Regulation 1503(b)(2).)

If a hospital makes a lump-sum charge for its services, it is regarded as the consumer of all property consumed in rendering those services, even if some of the property is transferred to the patient incidental to the hospital's services. The hospital is also always the consumer with respect to property for which title does not pass to the patient, such as reusable items and disposable gloves, regardless of the manner of billing. Thus, even if a hospital makes a separate charge for a dozen disposable gloves worn by hospital personnel during an operation, the hospital is not regarded as selling the gloves to the patient but instead is the consumer of them.

The manner of billing is relevant, however, with respect to property title to which passes to the patient. When a hospital makes a separate charge for such an item, the hospital is regarded as selling that item to the patient. If the item is not "administered" within the meaning of subdivision (b)(2) of Regulation 1503, and the hospital itemizes a charge for that item, the hospital is regarded as the seller of it. Nonadministered items, title to which passes to the patient include tissues, guest trays, pills (sales of which may be exempt as medicines), and items the patient takes upon release from the hospital.

When title to an item is transferred to the patient and the item is administered within the meaning of Regulation 1503(b)(2), the question is whether an itemized charge referring to the item is a separate charge for the item. If an item is administered, the hospital is not regarded as making a separate charge for the item unless it bills an amount for the item itself and then makes a separate charge that is specifically for the administration of that item. If instead the hospital bills an amount for the item without an additional separately itemized charge for administration of that item, the hospital is not regarded as the seller thereof even if title passes to the patient upon administration. 12/27/95. (Am. 2003-3).

(Note: Changes to Regulation 1503, effective June 1, 2001, replaced the "administered vs. nonadministered" concept with the new procedures specified in subdivision (b)(2).)

[300.0140](#) **Weight Reducing Facility.** Persons providing meals and lodging as part of a supervised weight reduction program are not operating a ‘hospital’ or ‘other institution.’ Such persons are retailers of meals served to individuals undertaking the program. 1/2/69.