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September 24, 1997

E. L. SORENSEN, JR.
Executive Director

Ms. K--- R. A---
Senior Accountant
S---
XXX --- ---
--- ---, CO XXXXX-XXXX

RE: SC -- XX-XXXXXX
Excimer Laser Coronary Angioplasty Catheters

Dear Ms. A---:

I am responding to your letter dated July 31, 1997 to the Legal Department requesting advice as to the applicability of use tax to S---' sales of excimer laser coronary angioplasty catheters to purchasers for use in California. You assert these products "relate to percutaneous transluminal laser coronary angioplasty/atherectomy purposes" (emphasis in original) and cite Sales and Use Tax Annotation 425.0231 as support for your position that such items should be considered "medicines" within the meaning of Regulation 1591, the sales of which are exempt from tax.

The Board recently added new subdivision (n) to Regulation 1591 as follows:

"Sales of intra-aortic balloon pump catheters and coronary angioplasty balloon catheters are not subject to tax. 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."

(Effective August 23, 1996.) The Board thus limited the compass of this subdivision to those two items only. No other items qualify, though possibly similar in function. Accordingly, laser angioplasty catheters are not "medicines" as defined in Regulation 1591(b)(5) but rather are "instruments" excluded from the definition of "medicines" under Regulation 1591(c)(2). Their sales are, for that reason, subject to tax.

For your information, I have enclosed copies of Regulation 1591 and of Tax Tip Pamphlet Number 45, "Hospitals." I hope the above discussion has answers your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Senior Tax Counsel

JLW:sr

cc: -- District Administrator
-- District Administrator