

June 25, 2012

[REDACTED]

FORMAL RULING 2012- 03

Dear [REDACTED]

You have requested a formal ruling on whether the sale of [REDACTED] by your client, [REDACTED], to hospitals and surgery centers in Vermont is subject to sales or use tax. This ruling is based on the facts presented in your [REDACTED] letter to the Department as supplemented by our telephone conversation of June 22, 2012.

FACTS: [REDACTED] is a biotechnology company that has developed and sells [REDACTED]. [REDACTED] is a sterile, synthetic, non-pyrogenic material intended for use in combination with autologous bone marrow for bone void filling and fracture repair of the pelvis and extremities. The product [REDACTED]

[REDACTED]

[REDACTED]. Once in place, [REDACTED] becomes part of the bone structure and is not removed.

RULING: Vermont's sales and use tax law exempts certain items used in the medical profession as follows:

Drugs intended for human use, durable medical equipment, mobility enhancing equipment, and prosthetic devices and supplies, including blood,

blood plasma, insulin, and medical oxygen, used in treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities.

32 V.S.A. § 9741(2). A prosthetic devise is defined as “a replacement, corrective, or supportive device ... worn on or in the body to ... artificially replace a missing portion of the body” or “prevent or correct a physical deformity or malfunction” or support a weak or deformed portion of the body.” 32 V.S.A. § 9701(35).

██████████ is a prosthetic devise in that it both artificially replaces missing bone and supports bone that is weak or deformed as the result of injury.

This ruling will be made public after deletion of the taxpayer’s name and any information which may identify the taxpayer. A copy of the ruling showing proposed deletion is attached. You may request further redaction within 30 days. Final discretion with respect to deletions remains with the Commissioner.

This ruling is issued solely to the taxpayer’s business and is limited to the facts presented and laws and regulations in effect at the time of this ruling. Other taxpayers may refer to this ruling for guidance as to the Department’s interpretation of referenced statutes but the ruling is not binding on the Department in the case of any other taxpayer or, with respect to the taxpayer, in the event of subsequent changes to relevant law or regulations.

You have the right to appeal this ruling within 30 days. 3 V.S.A. §§ 808, 815.

Sincerely,

Molly Bachman
General Counsel

Approved this ____ day of June, 2012.

Mary N. Peterson
Commissioner