

REDACTED VERSION

[Date]

[Address]

Re: Formal Ruling 18-06

Dear [Deleted]:

This is a formal ruling for [Taxpayer] regarding the applicability of sales tax to its sales of certain products. This ruling is based upon representations in your letter dated [date].

RULING

Based upon the facts presented, the blood glucose testing meters, testing strips, lancets and lancing devices are all exempt from sales and use tax.

FACTS

[Taxpayer], through its subsidiary, [Taxpayer Subsidiary], (Taxpayer) operates retail stores in Vermont. Taxpayer sells glucose testing meters, glucose test strips, lancets, and lancing devices. You have asked whether Vermont sales tax applies to sales of these items.

A glucose testing meter is a device that determines the approximate concentration of glucose in the blood by “reading” from a drop of blood on a disposable test strip. A blood glucose test strip is a piece of material which reacts with a drop of blood to enable the blood to be “read” by the testing meter. A lancet is a small needle used to pierce the skin to obtain a blood droplet for glucose testing. A lancing device holds a lancet and moves the lancet when triggered, so that it

pierces the skin in a controlled manner, to obtain the blood droplet for glucose testing. Testing with the meter requires the use of the test strips and lancets.

DISCUSSION

Vermont's sales and use tax applies to retail sales of tangible personal property. An exemption applies to medical items "used in diagnosis or treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities." 32 V.S.A. § 9741(2). Exempt medical items include durable medical equipment and medical supplies. These are defined in the Department's regulations as follows:

[D] 1. "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn on or in the body. 32 V.S.A. § 9701(30). "Repair and replacement parts" as used in this definition include all components or attachments used in conjunction with the durable medical equipment.

Examples of exempt durable medical equipment include bath and shower chairs, commode chairs, dialysis treatment equipment, drug infusion devices, feeding pumps, hospital beds, MRIs, oxygen equipment, resuscitators, and x-ray machines. Furniture in a hospital or doctor's waiting room is not exempt because it does not serve a medical purpose and is not designed to be used in the treatment of human ailments or disabilities.

* * *

F. Supplies used in treatment are exempt from the tax. The supply must be therapeutic in nature, not normally used by persons absent illness or injury, and in contrast to durable medical equipment, not capable of repeated usage.

Examples of supplies that are exempt include bandages and surgical dressings, hypodermic syringes and needles, disposable heating pads, and colostomy devices. Examples of supplies not exempt from the tax are body massage appliances, therapeutic foot baths, room humidifiers and air conditioners, household baby and bathroom scales, athletic supporters, medic alert bracelets, and hot tubs.

Vermont Department of Taxes Regulations § 1.9741(2)D.1, F.

The glucose testing meter and the lancing device are used to test glucose level in the blood, meaning they are “used in diagnosis or treatment,” as required by the statute. The meter and lancing device “can withstand repeated use, generally are not useful to a person in the absence of illness or injury [diabetes], and are not worn on or in the body,” as required by the regulations. They qualify as exempt durable medical equipment.

A glucose blood test using the meter cannot be accomplished without using a lancet and a test strip. These items are, however, not “repair and replacement parts” for the meter, and are not “components or attachments” of the meter, so do not qualify as durable medical equipment.

The test strips and lances do qualify as exempt medical supplies. They are “used in diagnosis or treatment,” as required by the statute. They are also “therapeutic in nature, not normally used by persons absent illness or injury, and in contrast to durable medical equipment, not capable of repeated usage,” as required by the regulations. The online Cambridge Dictionary defines “therapeutic” as “having a healing effect; tending to make a person healthier.” <https://dictionary.cambridge.org/us/> (Cambridge University Press 2018). The examples given in the regulations show that the exemption extends to items which are clearly medical in nature, but are used indirectly in healing, such as “bandages . . . and colostomy devices.”

The portion of Formal Ruling 2004-03 pertaining to sales tax on lancets is withdrawn.

GENERAL PROVISIONS

Issuance of this ruling is conditioned upon the understanding that neither the taxpayer nor a related taxpayer is currently under audit or involved in an administrative appeal or litigation concerning the subject matters of the ruling. This ruling is issued solely to the taxpayer and is limited to the facts presented, as affected by current statutes and regulations.

Other taxpayers may refer to this ruling, when redacted to protect confidentiality, to see the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statutes or regulations.

This ruling will be made public after deletion of the taxpayer's name and any information which may identify the taxpayer. A copy of this ruling showing the proposed deletions is attached, and you may request within 30 days that the Commissioner delete any further information that might identify the taxpayer. The final discretion as to deletions rests with the Commissioner.

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

Emily Bergquist

Date

Approved:

Commissioner signed the original ruling on October 4, 2018.

Kaj Samsom
Commissioner of Taxes

Date