
Opinion of the Tax Commissioner

Date Issued: November 20, 2000

Opinion No: 00-0010

Tax: Sales/Use

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Subject: Defibrillation Units

This request for an opinion of the Tax Commissioner was received on September 15, 2000. It concerns the application of sales and use taxes on the sale of portable defibrillation units by XXXX to its customers.

FACTUAL BACKGROUND

- (1) The taxpayer, an Ohio corporation, sells portable defibrillation units.
- (2) The defibrillation units are used in commercial establishments such as office buildings, government buildings, commercial aircraft and other areas where there is a concentration of people.
- (3) The defibrillation units are used to aid the victim by electrical stimulation of the heart muscle to assure the heart continues to pump blood throughout the body.
- (4) The units are operated by trained operators.

QUESTION FOR WHICH OPINION IS REQUESTED

Whether or not the sales of the portable defibrillation units are exempt from sales and use tax ?

OPINION

The Ohio sales and use tax law for determining the tax treatment of sales of medical devices is found in R.C. 5739.02(B)(19). In pertinent part, the section reads:

"Sales of artificial limbs or portion thereof, breast prostheses, and other prosthetic devices for humans; braces or other devices for supporting weakened or nonfunctioning parts of the human body; wheelchairs; devices used to lift wheelchairs into motor vehicles and parts and

accessories to such devices; crutches or other devices to aid human perambulation; and items of tangible personal property used to supplement impaired functions of the human body such as respiration, hearing, or elimination.

No exemption under this division shall be allowed for nonprescription drugs, medicines, or remedies; items or devices used to supplement vision; items or devices whose function is solely or primarily cosmetic; or physical fitness equipment. This division does not apply to sales to a physician or medical facility for use in the treatment of a patient."

Based on the information provided, it appears that the defibrillation units are exempted from sales or use tax as devices for supporting weakened or nonfunctioning parts of the human body. Accordingly, it is the opinion of the Tax Commissioner that such units are not subject to sales or use tax unless the equipment is sold to a physician or medical facility for the use in the treatment of a patient. Sales to a physician or medical facility are subject to sales or use tax pursuant to the last sentence of R.C. 5739.02(B)(19) unless the entity itself is exempt from tax such as a nonprofit organization or governmental agency.

This opinion applies only to this taxpayer. The tax consequences stated in this opinion may be subject to change for any of the reasons stated in R.C. 5703.53(C). It is the duty of the taxpayer to be aware of such changes. R.C. 5703.53(E).

Thomas M. Zaino
Tax Commissioner