

A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.311. (This is a GIL.)

August 9, 2012

Dear:

This letter is in response to your letter dated June 29, 2012, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am requesting a ruling for the COMPANYS' NAME embolization pledgets product to determine if it's subject to sales tax in your state. COMANY is a medical device company focused on bringing solutions to interventional cardiologists and interventional radiologists.

NAME embolization pledgets are pre-formed, radially compressed pledgets of gelatin foam that are designed to be delivered through a catheter to embolize vessels in hypervascular tumors and arteriovenous malformations. Once in the artery or vein the pledgets help to occlude blood flow. Each tray of NAME pledgets contains two delivery tubes, each containing one pledget, along with a 1cc or 3cc delivery syringe. This is a disposable, single use product sold to hospitals and clinics that has restrictive labeling stating "CAUTION: Federal Law (U.S.A.) restricts this device to sale by or on the order of a physician."

Enclosed are copies of the literature and instructions for use for this product. Additional information can be found at WEBSITE. Please contact me with any questions you have.

DEPARTMENT'S RESPONSE:

Please see the Department's regulation at 86 Ill. Adm. Code Section 130.311, which is its regulations governing Drugs, Medicines, Medical Appliances, and Grooming and Hygiene Products. Those products that qualify as drugs, medicines and medical appliances are taxed at a lower State rate of 1% plus any applicable local taxes. Those items that do not qualify for the low rate of tax are taxed at the general merchandise rate of 6.25% plus applicable local taxes.

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The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Please note that 86 Ill. Adm. Code 130.311(d)(7) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. Note, though, not all items prescribed by physicians or other licensed health care professionals qualify for the low rate. Examples of items that qualify for the reduced rate are corrective medical appliances such as hearing aids, eyeglasses and contact lenses. As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances, even if prescribed by a licensed health care professional, because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.311(d).

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess
Associate Counsel