

ST 17-0022-GIL 06/15/2017 FOOD, DRUGS & MEDICAL APPLIANCES

This letter discusses the rules regarding the taxability of drugs and medical appliances. See 86 Ill. Adm. Code 130.311. (This is a GIL.)

June 15, 2017

Dear Xxxxx:

This letter is in response to your letter, in which you requested 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](http://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 in the process of developing a small business focused on breastfeeding products. I am writing to confirm the tax rate for some of the products as they may be taxed at the 1% rate. I will need to know if these products are taxed at the 1% rate:

Breast pumps  
Breast pump parts  
Herbal lactation supplements to increase milk supply  
Lactation cookies to increase mild supply  
Breast shields  
Breast shells  
Nipple cream for sore nipples/nipple rash  
Pumping/Nursing bras  
Gel pads for sore nipples

If you could please respond via email, mail or by phone that would be appreciated! My ADDRESS. My email is [EMAIL.COM](mailto:EMAIL.COM). My phone number is ###.

**DEPARTMENT’S RESPONSE:**

All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided. Medicines and medical appliances are not taxed at the basic State rate of 6.25% plus applicable local taxes. These items are taxed at a reduced State rate of 1% plus applicable local taxes. See 86 Ill. Adm. Code 130.311, Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products. Items subject to this lower tax rate include prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use.

A medicine or drug is defined as any pill, powder, potion, salve, or other preparation for human use that purports on the label to have medicinal qualities. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim. See 86 Ill. Adm. Code 130.311 for examples of medicinal claims.

A medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body. Included in the exemption as medical appliances are such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines (including the dialyzer). Corrective medical appliances such as hearing aids, eyeglasses and contact lenses qualify for 1% rate. Moreover, generally, home glucose monitors, test strips and related supplies used to treat human diabetes also qualify for the 1% State rate of tax. See subsection (d) of 86 Ill. Adm. Code 130.311.

Based on the items listed in your letter, it does not appear that any directly substitute for a malfunctioning part of the human body and, thus, would not qualify for the 1% rate. With respect to the cream you inquired about, we cannot make a determination about the rate without more information regarding how the product is used and without examining the claims made on the product label. Please apply the above referenced regulation to the items you listed in order to determine the appropriate tax rate.

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

Very truly yours,

Debra M. Boggess  
Associate Counsel

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