

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

March 27, 2024

NAME
ADDRESS

Dear NAME:

This letter is in response to your email dated March 26, 2024, 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 <https://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:

This is a request for a Private Letter Ruling on the eligibility for the low/medical tax rate on my physician prescribed compression stockings.

On DATE I saw my cardiologist, DOCTOR. At that time I advised her of how the varicose veins in my legs were becoming painful. She ordered a [sic] ultrasound vascular procedure be done on my legs. This test was preformed [sic] on DATE1 at PROVIDER office in CITY, IL. DOCTOR1 was the interpreting physician of the results of that procedure.

The conclusions included the following information:

Severe reflux in the right great saphenous vein and left great saphenous vein
Severe reflux in the right small saphenous vein
Severe reflux in the right calf tributaries and left calf tributaries Severe
reflux in the left thigh tributaries.

On DATE2 DOCTOR placed an order for compressions stockings 20 to 30 mmHg to above the knee. The RN at PROVIDER cardiology advised that this type of stockings could be secured from SUPPLIER at ADDRESS1. I would need to be measured and show them my physician's order to obtain the proper stockings.

On DATE3 I was able to go in to that establishment, was measured, and ordered my prescription stockings. The subtotal for one pair was \$109.99 for which I was charged an additional \$8.80 sales tax.

It took a couple weeks for the stockings to be delivered to the store, and I started wearing them immediately when picked up.

On DATE4 I had an appointment with DOCTOR1, Intervention Cardiologist. We discussed my condition and the benefit of these stockings. He indicated if I wanted to get a second pair, it would be okay to get the knee high version to alternate wearing with the over the knee stockings.

On DATE5 I ordered the knee high pair from SUPPLIER. I was charged \$75.99 plus \$6.08 sales tax.

I was able to submit the bills for both pair of stockings to my insurance company COMPANY where I have a Medicare Advantage Plan. They covered the amounts less the co-pay but indicated the sales tax was not eligible and I should not have to pay that charge. This got me to thinking and investigating whether these stockings should be taxed at the low/medical rate. Calls were placed to SUPPLIER to inquire about the lower rate. They denied any adjustment.

It just seems strange that after going through a significant testing procedure, having a cardiologist and an interventional cardiologist recommend my need for these stockings, having to provide a written documentation of my need and having my legs measured, that these stockings wouldn't qualify for the lower medical tax rate. I was fortunate to have a portion of my payment reimbursed by my medical insurance (another aspect which indicates the "medical" of my purchase).

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in

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this State in the business of selling tangible personal property to purchasers for use or consumption. See 35 ILCS 120/2; 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as “sales” tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers’ Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois, purchasers must self-assess their Use Tax liability and remit it directly to the Department.

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. See 86 111. Adm. Code 130.311(a).

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(c)(1) 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 86111. Adm. Code 130.311(d).

Support hose and socks do not generally qualify for the low rate of tax. However, graduated compression stockings and anti-embolism stockings differ from support hose in that their graduated compression is intended to aid in the flow of blood up the legs where valves in the blood vessels do not function properly. Graduated compression stockings and anti-embolism stockings have been found to qualify for the low rate.

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It appears based on the information provided in your letter that the compression stockings may qualify for the low rate of tax imposed on medical appliances. However, without more information, the Department cannot provide a definitive answer. I recommend that you contact your doctor and inquire whether the compression stockings prescribed for you are used to directly substitute for a malfunctioning part of the human body and, therefore, meet the requirements to qualify for the low rate of tax on medical appliances. A physician's note stating this finding along with a copy of this letter would constitute sufficient documentation to demonstrate the applicability of the low rate of tax, and the retailer should maintain such documents in its books and records.

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,

Richard S. Wolters
Associate Counsel

RSW