



Private Letter Ruling 03-009
Redacted Version
Sales Tax—Medical Devices Exemption
September 9, 2003

This private letter ruling addresses whether or not the parts and accessories purchased for use in previously installed medical linear accelerators qualify for the medical devices exemption.

Facts

Company manufactures and sells medical linear accelerators. This equipment is sold primarily to hospitals for use in providing radiation treatment to cancer patients. The equipment requires specially constructed facilities to house the machines and to provide radiation shielding.

Physicians use the medical linear accelerator equipment to provide radiation treatment to individual cancer patients. This equipment provides the highest radiation dose rates for rapid patient treatment. One of Company's customers has claimed that the equipment and parts purchased for previously installed equipment fall under the exemption for medical devices as stated in La. Rev. Stat. Ann. § 47:305(D)(1)(s) (West 2003). This customer asked Company to stop charging sales tax stating that they would remit sales tax to the state on the appropriate items and would not pay sales tax charged that they believe is inappropriate.

Issue

Do the medical linear accelerators, accessories, or parts for this equipment meet the definition of a medical device that is exempted from Louisiana sales and use tax as provided by § 47:305(D)(1)(s)?

Ruling

The sales tax exemption for medical devices, which is defined in § 47:305(D)(1)(s), includes:

Any and all medical devices used exclusively by the patient in the medical treatment of various diseases or administered exclusively to the patient by a physician, nurse, or other health care professional or health care facility in the medical treatment of various diseases under the supervision of and prescribed by a licensed physician.

The medical linear accelerator equipment, accessories, and parts do not qualify as exempt medical devices. While the use of the medical linear equipment meets some of the criteria mandated for the exemption, including being prescribed by physicians, being used under the supervision of a physician or healthcare professional, and being used in the treatment of a medical disease, the use of the medical linear equipment, accessories, and parts does not meet the statutory criterion relating to being “used exclusively by the patient” or “administered exclusively to the patient.”

By using the word “exclusively” to modify how the device must be used or administered to the patient, the Louisiana Legislature has limited the application of the exemption. *The American Heritage Dictionary* 473 (2d ed. 1982) defines “exclusive” as “not divided or shared with others” or “single or independent; sole.” *Black's Law Dictionary* 564 (6th ed. 1990) defines “exclusive”

as "...Sole...vested in one person alone. Apart from all others, without the admission of others to participation." Because "exclusive" means that something is intended for one person only, the medical device exemption only applies to items that will be used by or administered to a single patient.

Patients can purchase exempt medical devices or a hospital or doctor's office can purchase the items tax-free on behalf of their patients. In either instance, the exempted item must be exclusively for the benefit of only one, individual patient. Because the medical linear accelerator equipment, accessories, and parts are not "used exclusively by the patient" or "administered exclusively to the patient" but are designed for numerous applications for the benefit of many different patients, they do not qualify for the medical devices exemption provided in § 47:305(D)(1)(s).

Summary

The medical linear accelerator equipment, accessories, and parts do not qualify for the medical devices exemption in § 47:305(D)(1)(s). These items are not used exclusively on a single patient; instead, the items of durable medical equipment are used repeatedly for the benefit of many patients. Thus, these objects do not fit within the scope of the exemption.

If you have any questions or need additional information, please contact the Policy Services Division at (225) 219-2780.

Sincerely,

Cynthia Bridges
Secretary

By: _____
Christina Fletcher
Attorney
Policy Services Division

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