

**TENNESSEE DEPARTMENT OF REVENUE
REVENUE RULING #06-16**

WARNING

Revenue rulings are not binding on the Department. This presentation of the ruling in a redacted form is information only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Departmental policy.

SUBJECT

Whether certain medical devices are exempt from sales and use tax as prosthetic devices.

SCOPE

Revenue rulings are statements regarding the substantive application of law and statements of procedure that affect the rights and duties of taxpayers and other members of the public. Revenue rulings are advisory in nature and are not binding on the Department.

FACTS

Company A is a manufacturer and distributor of medical devices, including Brand X Coil systems that are used to treat brain aneurysms. Company A's products are primarily sold to physicians, hospitals, and other medical facilities. The majority of Brand X Coil systems sold by Company A to hospitals in Tennessee are small coils used to obstruct or plug brain aneurysms. An aneurysm is a malformation in a blood vessel in which the vessel wall has stretched or bubbled. The resulting weak spot, the fundus, fills with blood and the pressure from this excess blood makes the vessel prone to rupture, causing a brain hemorrhage. Coils provide immediate protection against rehemorrhage by reducing blood pulsations within the fundus, and sealing the weak portion of the wall or hole. Eventually, clotting occurs within the aneurysm and the aneurysm is excluded from the parent vessel by the formation of a layer of connective tissue. The coils are

constructed of platinum to allow them to conform to the irregular shape of the aneurysm and to make them visible via x-ray. The coils are attached to a delivery wire and are fed through a catheter into the aneurysm. Once the coil is properly positioned, it is detached from the delivery wire by an electronic charge and the coil is left behind to prevent blood from flowing into the aneurysm and causing a rupture. The delivery wire is removed and discarded after use. The Brand X Coil is packaged with the detachable delivery wire and sold for one price. The delivery wire represents 10% or less of the total cost of the product. The Brand X Coil and delivery wire are not separately stated on the invoice.

ISSUE

Are Brand X coils exempt from sales and use tax as prosthetic devices?

RULING

Yes.

ANALYSIS

Under the Retailers' Sales Tax Act, Tenn. Code Ann. § 67-6-101 et. seq., the sale of tangible personal property is generally subject to sales and use tax unless an exemption applies. Several specific exemptions apply to the sale of medical equipment and supplies including the following exemption for orthotics and prosthetics:¹

Tenn. Code Ann. § 67-6-314(5) provides as follows:

There is exempt from the sales tax imposed by the chapter. . .

(5) The sale or repair of prosthetics, orthotics, special molded orthopedic shoes, walkers, crutches, surgical supports of all kinds, and other similarly medical corrective or support appliances and devices.

A device is a prosthetic if it replaces a missing body part or augments the performance of a natural function. *Cordis Corp. v. Taylor*, 762 S.W.2d 138, 139 (Tenn. 1988). *Cordis* held that an implantable cardiac pacemaker is a prosthetic because it replaces or augments the missing or reduced body function of providing a stimulus for the beating of a heart. *Id.* *Cordis* also held that a hydrocephalus valve system is a prosthetic because it is an artificial part which augments the natural flow of cerebral spinal fluid from the brain into the bloodstream. *Id.*

¹ The definition of a prosthetic device will change effective July 1, 2007 with the adoption of the Streamlined Sales Tax Agreement.

Brand X Coils are designed to obstruct or plug brain aneurysms. The coils are attached to a delivery wire and are fed through a catheter into the aneurysm. The delivery wire allows the physician to reposition or withdraw the coil. Once the coil is properly positioned, it is detached from the delivery system and left behind to prevent blood from flowing into the aneurysm.

The coil augments a function of the body by sealing off the weak portion of the blood vessel, by promoting blood clotting to occur within the aneurysm, and promoting the growth of connective tissue between the parent vessel and the aneurysm. Since the coil clearly augments the function of the blood vessel in the brain by blocking off the aneurysm so that the blood can flow properly through the vessel, it is exempt from sales and use tax as a prosthetic under Tenn. Code Ann. § 67-6-314(5).

The coil delivery wire is considered disposable because it is useless and valueless after the preloaded coil is delivered.² The Department has taken the position that a disposable wire that is attached to and delivers an exempt medical device constitutes a single item which qualifies for the exemption under Tenn. Code Ann. § 67-6-314(5). Based on this reasoning, the coil delivery wire is exempt from sales and use tax as a prosthetic device.

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APPROVED: Loren L. Chumley
Commissioner

DATE: 5/5/06

² Please note that under the Streamlined Sales Tax legislation, effective July 1, 2007, a transaction that includes taxable products and nontaxable products, where the “purchase price” or “sales price” of the taxable products is de minimis, will not be considered a bundled transaction (i.e. “the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable, and the products are sold for one non-itemized price”). De minimis means “the seller’s “purchase price” or “sales price” of the taxable products is ten percent (10%) or less of the total “purchase price” or “sales price” of the bundled products.”