DEPARTMENT OF STATE REVENUE

Revenue Ruling ST 98-07

July 24, 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

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ISSUES

I. Taxation of Blood Replacement

Authority: IC 6-2.5-2-1, IC 6-2.5-4-1, IC 6-2.5-5-19

Taxpayer requests the Department to rule on the taxability of blood replacement.

II. Taxation of Water Treatment

Authority: IC 6-2.5-5-5.1

Taxpayer requests the Department to rule on the taxability of water treatment.

III. Sales Taxation of Disposable and Reusable Syringes and Needles and Disposable and Reusable Instruments and Equipment by Veterinarians

Authority: Information Bulletin #48A

Taxpayer requests the Department to rule on the taxability of disposable and reusable syringes and needles and disposable and reusable instruments and equipment by veterinarians.

IV. Sales Taxation of Disposable and Reusable Syringes and Needles and Disposable and Reusable Instruments and Equipment by Farmers.

Authority: IC 6-2.5-5-5.1, 45 IAC 2.2-5-3

Taxpayer requests the Department to rule on the taxability of disposable and reusable syringes and needles and disposable and reusable instruments and equipment used by farmers.

STATEMENT OF FACTS

Taxpayer is an animal health care and veterinary supply distributor. Taxpayer sells the following items: Blood replacement used in vet clinics by veterinarians to treat animals. Water treatment added to water for purification that cleans lines and water for drinking; this product is used on food production farms, mainly poultry. Disposable and reusable syringes and needles and disposable and reusable instruments and equipment by veterinarians to medicate or treat animals. Disposable and reusable syringes and needles and disposable and reusable instruments and equipment used by farmers to medicate or treat animals.

I. Taxation of Blood Replacement

DISCUSSION

Pursuant to IC 6-2.5-2-1, a sales tax, known as state gross retail tax, is imposed on retail transactions made in Indiana. IC 6-2.5-4-1 provides that a retail transaction involves the transfer of tangible personal property. Pursuant to IC 6-2.5-5-19(c), "sales of drugs, insulin, oxygen, blood, and blood plasma are exempt from the state gross retail tax, f 1) the purchaser is a practitioner licensed to prescribe, dispense and administer drugs to human beings or animals, and 2) the purchaser buys the items for direct consumption in his practice."

RULING

The Department rules that blood replacement used in vet clinics by doctors in treatment of animals is not subject to gross retail tax.

II. Sales Taxation of Water Treatment

DISCUSSION

Taxpayer sells water treatment product of high oxygen level and acid base used for water purification on food production farms. Pursuant to IC 6-2.5-5-1, "transactions involving animals, feed, seed, plants, fertilizer, insecticides, fungicides and other tangible personal property are exempt from the state gross retail tax if: (1) the person acquiring the property acquires it for his direct use in the direct production of food or commodities for sale or for further use in the production of food or commodities for sale; and (2) the person acquiring the property is occupationally engaged in the production of food or commodities which he sells for human or animal consumption or uses for further food or commodity production."

It should be noted that for exempt transactions, the farmer acquiring the tangible personal property must provide an exemption certificate to taxpayer. Pursuant to IC 6-2.5-3-7(a), a person who acquires tangible personal property from a retail merchant for delivery in Indiana is presumed to have acquired the property for use, storage, or consumption in Indiana, unless the person can produce evidence to rebut that presumption. Pursuant to IC 6-2.5-3-7(b), a retail merchant is not required to produce evidence of non-taxability under subsection (a) if the retail merchant receives from the person who acquired the property an exemption certificate which certifies, in the form presented by the Department that the acquisition is exempt from use tax.

RULING

The Department rules that water treatment used on food production farms is not subject to gross retail sales tax.

III. Sales Taxation of Disposable or Reusable Syringes and Needles and Disposable or Reusable Instruments and Equipment Used by Veterinarians.

DISCUSSION

Pursuant to Information Bulletin # 48A, "in general, all purchases of tangible personal property by a licensed practitioner are subject to sales tax." As used in this bulletin, a "licensed practitioner" means a veterinarian licensed by the State of Indiana to prescribe, dispense, and administer drugs, medical equipment or other supplies to animals in the ordinary course of their professional practice.

Exemption is afforded to sales of certain drugs, vaccines, insulin, oxygen, blood, or plasma. Sales to licensed practitioners of federal legend drugs, insulin, oxygen, blood, or blood plasma are exempt from the sales tax if the practitioner buys such items for direct consumption in the course of rendering professional service. Drugs, insulin, oxygen, blood, and blood plasma consumed in the course of rendering professional services are those drugs, etc., that are administered by a licensed practitioner or agent including the furnishing of such drugs, etc., as a part of a single charge for professional service.

However, sales tax shall apply to the following purchase transactions made by licensed practitioners.

(1) All office furniture, equipment and supplies.

(2) Non-legend drugs, when not purchased for resale. (See Section IV.)

(3) Surgical instruments, equipment, and supplies.

(4) X-ray, diathermy, diagnostic equipment, or any other apparatus used in the practice of surgery or medicine.

Because veterinarians are not considered retail merchants, they are not afforded exemption certificates. Thus, in transactions that are not taxable, taxpayer should document that the sale of disposable and reusable syringes and needles and disposable and reusable instruments and equipment was made to a veterinarian for use in rendering a professional service.

RULING

If used as part of a single charge for professional service, the purchase of disposable and reusable syringes and needles and disposable and reusable instruments and equipment by veterinarians are not subject to sales tax.

IV. Sales Taxation of Disposable or Reusable Syringes and Needles and Disposable or Reusable Instruments and Equipment Used by Farmers

DISCUSSION

The purchases of disposable and reusable syringes and needles and disposable and reusable instruments and equipment by farmers are exempt. 45 IAC 2.2-5-3 states that "sales to farmers of tangible personal property used to groom or treat poultry and animals used in the production of food so as to preserve their health, (including property such as medicines, serums, dehorners, debeakers, hoof trimmers [*sic.*,] hormones for productive animals, inoculation needles, and syringes) are exempt from tax.

RULING

The purchase of disposable and reusable syringes and needles and disposable and reusable instruments and equipment by farmers on food production farms are not subject to sales tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Department of State Revenue