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**DEPARTMENT OF STATE REVENUE**  
**Revenue Ruling #2008-03ST**  
**April 14, 2008**

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**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 It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register.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.

**ISSUES**

**Sales/Use Tax – Sales of Medical Device**

**Authority:** [IC 6-2.5-5-18](#), [IC 6-2.5-5-8](#), [IC 6-2.5-3-7](#)

The taxpayer requests the Department to rule on the following issues.

1. Are both of the components of the device, the drive unit and catheters, exempt as a medical device under [IC 6-2.5-5-18](#)?
2. If either or both of the device components are not exempt, may a hospital purchase for resale, whether or not the components are separately itemized on the patient's bill?
3. If either or both of the device components are not exempt as a medical device, will another exemption apply when purchased by a hospital in Indiana?

**STATEMENT OF FACTS**

The taxpayer, a medical equipment manufacturer, sells a medical device, primarily to physicians and hospitals, for use by physicians in the treatment of medical conditions. Specifically, the device removes plaque build-up from arteries. The device is composed of two components. First is a drive unit operated by a surgeon. The drive unit is a battery operated device controlled by a single on/off thumb switch and may be used for more than one patient. The second component to this device is a single-use catheter designed to be inserted into a patient's legs or arms. The catheter contains a tiny blade at the tip, which when activated by the drive unit will rotate and remove excess plaque from an arterial wall or blood vessel. The catheter is disposed of immediately upon use. These two components together constitute the device sold to physicians and hospitals. Upon purchase of the medical device, the physician or the hospital may charge the patient for the catheters used. The physician or the hospital may or may not enumerate a charge for the drive unit as it is used multiple times.

**DISCUSSION**

**Drive Devices**

The drive unit components are deemed to meet the definition of "Durable Medical Equipment" as contained within the Streamlined Sales and Use Tax Agreement, which Indiana is a participating state. The drive unit can withstand repeated use; is primarily and customarily used to serve a medical purpose; generally is not useful to a person in the absence of illness or injury; and is not worn in or on the body. Durable medical equipment is afforded exemption under I.C. 6-2.5-5-18(a), cited below.

[IC 6-2.5-5-18](#)

Medical Equipment, supplies, and devices

Sec. 18. (a) Sales of durable medical equipment, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

**Catheter Devices:**

The catheter devices are considered to be replacement parts of the device, thus meeting the definition of durable medical equipment. Such items can withstand repeated use for a single patient; however, they are never used for multiple patients. As such, catheter devices are also afforded an exemption under I.C. 6-2.5-5-18. Catheter devices are not deemed to be resold even if the costs of such devices are billed to a patient by a physician or hospital. A patient never takes "transfer of ownership nor possession" of such devices as it is stated that all catheter devices are immediately disposed of after physician use. However, if a hospital purchases then resells either drive devices or catheters to physicians whereby the physician is the ultimate final user of the devices, then the hospital may be entitled to a "resale" exemption afforded by I.C. 6-2.5-5-8.

The Department requires the vendor to collect the Indiana sales tax upon all sales shipped to an Indiana address for both "drive devices" as well as "catheter devices" unless the vendor obtains a completed exemption certificate from the purchaser. The vendor is relieved of all liability to collect the sales tax upon receipt of a properly completed exemption certificate.

[IC 6-2.5-3-7](#)

Presumption of taxability; exemption certificate

Sec. 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 storage, use, or consumption in Indiana. However, the person or the retail merchant can produce evidence to rebut that presumption.

(b) A retail merchant is not required to produce evidence of nontaxability under subsection (a) if the retail merchant receives from the person who acquired the property an exemption certificate which certifies, in the

form prescribed by the department, that the acquisition is exempt from the use tax.

Indiana exemption form ST-105 contains two available exemptions that may be applicable to the sale of either of these components parts.

I.C. 6-2.5-5-8 Property Acquired for **Resale** (by a physician or hospital for resale)

OR

I.C. 6-2.5-5-18 Durable Medical Equipment & Prosthetic Devices **Prescribed** by a Licensed Physician pertaining to the purchase of a drive device and/or catheter device qualifying as durable medical equipment.

#### **RULING #1**

Are both the components of the device, the drive unit and the catheters, exempt as a medical device under [IC 6-2.5-5-18?](#)

As explained in the above "Discussion" Section, the drive unit and catheters are defined as exempt medical devices under [IC 6-2.5-5-18](#).

#### **RULING #2**

If either or both of the device components are not exempt, may a hospital purchase for resale, whether or not the components are separately itemized on the patient's bill?

This question is not applicable due to the above Ruling #1, however, as explained in the "Discussion" Section, it would be possible, if necessary, to use the "resale" exemption in certain scenarios as well as the "medical equipment" exemption.

#### **RULING #3**

If either or both of the device components are not exempt as a medical device, will another exemption apply when purchased by a hospital in Indiana?

This question is not applicable due to the above Ruling #1, however, see above Ruling #2 for additional explanation.

#### **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 statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

*Posted: 05/28/2008 by Legislative Services Agency*

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