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Ohio Clarifies Definitions of “Drugs” and Various Types of Medical Equipment For Sales and Use Tax

Overview

In an effort to conform to the Streamlined Sales and Use Tax Agreement (SSUTA), Ohio changed the definitions of “Drug”, “Prescription,” “Durable Medical Equipment,” “Mobility Enhancing Equipment,” and “Prosthetic Device” in 2005. The Ohio Department of Taxation issued Information Release ST 2010-03 in September of 2010 to clarify these definitions and correct the utilization of these exemptions in practice.

Sales Tax Exemptions

Drugs

R.C. § 5739.02(B)(18) provides a sales tax exemption for the sale of (1) drugs for a human that may be dispensed only pursuant to a prescription; (2) insulin and other materials used by diabetics or persons with hypoglycemia, and (3) epoetin alfa when used to treat medical disease.

In previous practice, this exemption was applicable only when drugs were prescribed to an end consumer. The Information Release makes it clear that this exemption is not limited to sales to an end consumer. As a result, purchases by a physician or a medical facility of drugs that can be dispensed or administered to patients on the order of a licensed practitioner are entitled to the exemption.

The following are examples from Information Release ST 2010-03:

1. Doctor calls in a prescription to a pharmacy. The pharmacist then sells the drug to the patient. The sale to the patient is exempt under R.C. § 5739.02(B)(18).
2. Dentist purchases an anesthetic which the dentist will administer to patients. Since the anesthetic is a drug that cannot be dispensed or administered except by a licensed practitioner, the dentist’s purchase is exempt under R.C. § 5739.02(B)(18).
3. Pharmacist fills a prescription issued by a veterinarian for a medication for a customer’s cat. Since the drug is not for a human, the sale is subject to sales tax.

Hospital Beds & Oxygen

R.C. § 5739.02(B)(18) exempts the sale of hospital beds, medical oxygen, and medical oxygen dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities.

In previous practice this exemption was used when a hospital bed, medical oxygen, or medical oxygen dispensing equipment was purchased by a person with a medical problem for a medical purpose. The Information Release clarifies that the exemption applies to purchases by hospitals, nursing homes or other medical facilities.



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Durable Medical Equipment

R.C. § 5739.02(B)(19) exempts the sale of prescription durable medical equipment for home and human use.

Prosthetic Devices

R.C. § 5739.02(B)(19) exempts the sale of prescription prosthetic devices for human use. A purchase of a prosthetic device by a physician for the treatment of a patient will be exempt. Prosthetic devices purchased by a physician and maintained in inventory are not exempt unless they are ordered for a patient and separately itemized and billed to the patient or insurance carrier. In this case, the sale would be exempt pursuant to the resale exemption.

Note: A prosthetic device does not need be permanent in nature and includes catheters and slings.

Mobility Enhancing Equipment

R.C. § 5739.02(B)(19) exempts the sale of prescription mobility enhancing equipment to be used by a human in their home or vehicle. It does not include items incorporated into real property such as wheelchair ramps.

Note: If an item is classified as mobility enhancing equipment, it is not durable medical equipment.

Action Items

GBQ SALT professionals are available to assist in understanding the applicability of this information release and the effects it may have on your business.

For more information, please contact:

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