

Please be advised retail sales made directly to Medicare and Medicaid are exempt from tax as sales to a government body so long as the exemption is properly documented. See 86 Ill. Adm. Code 130.2080(a). (This is a GIL).

October 26, 2009

Dear Xxxxx:

This letter is in response to your letter dated August 31, 2009, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am the Controller for COMPANY.

My Company is a nationwide company, based out of STATE, providing billing services to physicians who dispense medications(s) to their Workers' Compensation patients. The patient obtains the medication(s) at the physician's practice with no out of pocket cost to the patient. My Company then bills the Workers' Compensation carrier who, in turn, pays for the medication.

It is our understanding that federal programs such as Medicaid/Medicare and Workers' Compensation are exempt from paying the 1% sales tax on prescription drugs in the state of Illinois. Would you kindly provide me, or direct me to, a copy of the exemption?

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. Please note that medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See the Department's regulation at 86 Ill. Adm. Code 130.310 which can be found on the Department's website.

Items subject to this lower tax rate include prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. Note, beginning September 1, 2009, nonprescription medicines and drugs subject to the

lower tax rate do not include grooming and hygiene products (e.g., shampoo, toothpaste, mouthwash, antiperspirants, soaps and cleaning solutions) even if those products make medicinal claims. A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See part (c) of Section 130.310. Medical devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate.

Under the traditional Medicare and Medicaid plan, sales made to Medicare and Medicaid are exempt from tax as sales to a government body so long as the exemption is properly documented through provision of an active exemption identification number. See 86 Ill. Adm. Code 130.2080(a). While no tax may be due on payments made directly to vendors by Medicare, Medicaid, or the Illinois Department of Healthcare and Family Services, tax is due upon any portions of bills paid by individuals or private insurance companies not covered by Medicare, Medicaid, or the Illinois Department of Healthcare and Family Services. This means, for example, when Medicare directly pays 80% of the medical bill and the remaining 20% is billed to the patient or his insurance company, assuming proper documentation of the exemption, the 80% is tax exempt as a governmental payment while the 20% is taxable. 86 Ill. Adm. Code 130.2005 and 130.2007.

It is important to note that payments will only be exempt from tax when they are paid **directly** by the government agency that has been issued an active exemption identification number by the Department. It is not enough that a payment to the vendor is made by a patient or insurance company and reimbursed by the government agency.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess
Associate Counsel

DMB:msk