

# STATE OF COLORADO

DEPARTMENT OF REVENUE  
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John Hickenlooper  
Governor

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GIL-11-005

April 26, 2011

XXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXX  
Attn: XXXXXXXXXXXXXXXXX

Re: Taxability of Insulin Infusion Pumps / Sales Tax

Dear XXXXXXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXXXXXX ("Company") a request for guidance on the application of sales tax on diabetes related medical equipment. The department discontinued issuing general information letters in late 2009 because of budgetary cutbacks, but has recently reinstated issuing these letters. The department issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues and is not binding on the department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the department but not the taxpayer, and requires payment of a fee. For more information about general information letters and private letter rulings, please see Department regulation 24-35-103.5 at [www.taxcolorado.org](http://www.taxcolorado.org) > FYI/Publication > Rulings.

The department initially treats your request as one of a general information letter. If you would like the department to issue a private letter ruling on the issues you raise, you can resubmit a request and fee in compliance with regulation 24-35-103.5. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not a determination of the tax consequence of any particular action or inaction.

## Issue

Is diabetes related medical equipment prescribed to a patient by a licensed physician exempt from sales tax?

## Background

Company is a medical equipment provider and manufacturer of subcutaneous insulin infusion pumps and related disposable supplies that assist individuals in the treatment of diabetes. A

licensed physician must prescribe one of Company's products before the product will be mail ordered directly to patient / consumer. Company wishes to clarify whether the diabetes related medical equipment is subject to Colorado sales tax.

### **Discussion**

Colorado levies sales and use tax on the sale or use of tangible personal property. §§39-26-104(1)(a) and 202, C.R.S. However, Colorado exempts from sale and use tax a variety of tangible personal property related to the treatment of diabetes, including:

- Drugs dispensed in accordance with a prescription.
- Insulin in all its forms dispensed pursuant to the direction of a licensed physician.
- Glucose used for treating insulin reactions.
- Blood and urine testing kits and materials.
- Insulin measuring and injecting devices, including hypodermic needles and syringes.
- Prosthetic devices.
- All sales of drugs and materials when furnished to a patient by a doctor as part of professional services.
- Therapeutic devices, appliances or related accessories which are sold to correct or treat a human physical disability or surgically created abnormality. Any such device with a retail value of more than \$100 must have a written recommendation from a licensed doctor to be exempt.

§39-26-717, C.R.S. The infusion pump and related disposable supplies appear to fall within the category of "insulin measuring and injection devices" because the pump measures an insulin dosage and injects the insulin. See, also, department FYI Sales 68 Medical and Dental Supplies and Equipment, page 4, which lists, among other patient supplies, infusion pumps and insulin syringes as exempt.

Although these products may qualify for other exemptions noted above, we do not decide those issues here because the goods appear to qualify as an insulin measuring and injecting device.

The majority of other states we reviewed follow a similar approach. See, for example, Texas Policy Letter Ruling No. 8208L0473C01, 08/01/1982, (Infusion pumps and related disposables used to treat diabetes are considered therapeutic appliances, which are exempt from tax when sold under a doctor's prescription); Washington Tax Determination No. 92-163, 12 WTD 199, 06/24/1992, (Washington exempts from retail sales tax and use tax "prescription" and "other substances." Infusion pumps are included in "other substances"); Ga. Code Ann. § 48-8-3 Exemptions, (The sale or use of durable medical equipment, which includes infusion pumps, is exempt when prescribed by a physician); Massachusetts Letter Ruling No. 82-111, 11/29/1982, (Sales of prescription infusion pumps, tubing and batteries used to administer insulin and other substances are exempt from sales tax); Minnesota Sales Tax Fact Sheet No. 117B, 04/01/2010, (Durable medical equipment that can withstand repeated use, which includes drug infusion pumps, are exempt from sales and use tax).

### **Miscellaneous**

Pursuant to state law and department regulation 24-35-103.5, noted above, the Department will make public a redacted version of this letter. Your letter requesting this general information letter is not made public. I enclose a proposed redacted version of this letter. Please contact me within 60 days from the date of this letter if you have any questions, comments, or objection concerning the redacted letter.

I hope this is helpful. Please feel free to contact me if you have any questions.

Sincerely,

Neil L. Tillquist  
Colorado Department of Revenue