



## Sales 68 Medical and Dental Supplies and Equipment

### GENERAL INFORMATION

Colorado exempts certain drugs, medical equipment and supplies from state and state-administered sales and use taxes. Home-rule cities may have their own tax regulations regarding these items and should be contacted directly. For information on local tax rates, see the publication Colorado Sales/Use Tax Rates (DR 1002).

Vendors who sell to medical service providers are retailers and must collect sales taxes on nonexempt sales.

Medical service providers include doctors, hospitals and medical clinics, nursing homes, and other similar entities. Because the principal focus of these medical service providers is the sale of services, they are considered to be the consumers of the equipment and supplies they purchase and use to provide their services. Sales of nonexempt items to these providers are treated as retail sales, not wholesale sales. For more information, please see Publication FYI Sales 52, Special Regulation: Service Enterprises.

### EXEMPTIONS

Colorado law exempts from sales and use tax certain items used in the medical field. Not all drugs, medical supplies, and equipment are exempt. The following items are exempt. §39-26-717 C.R.S.:

- Prescription drugs dispensed in accordance with a prescription or furnished by a licensed provider.<sup>1\*</sup>
- Insulin, hypodermic needles and syringes used only for insulin, and glucose used for treating insulin reactions.
- Blood and urine testing kits and materials.
- Prosthetic devices.
- Corrective eyeglasses and contact lenses. This includes over-the-counter corrective eyeglasses.
- All sales of drugs and materials when furnished to a patient by a licensed provider<sup>1</sup> as part of professional services.\*
- Hearing aids, including related accessories, such as batteries, testers and hearing aid savers.
- Sleep therapy, inhalation therapy, and electrotherapy and related equipment dispensed pursuant to a prescription.<sup>2\*\*</sup>
- Oxygen delivery equipment and disposable medical supplies related to oxygen delivery equipment dispensed pursuant to a prescription.<sup>2\*\*</sup>
- Medical, feeding, and disposable supplies, including any related accessories for incontinence, infusion, enteral nutrition, ostomy, urology, diabetic care, and wound care dispensed pursuant to a prescription<sup>2\*\*</sup>
- Durable medical equipment, including repair and replacement parts, dispensed pursuant to a prescription<sup>2\*\*</sup>  
Durable medical equipment means equipment that:
  - ✓ can withstand repeated use;
  - ✓ is primarily and customarily used to serve a medical purpose;
  - ✓ is generally not useful to a person in the absence of illness or injury; and,
  - ✓ is not worn on the body.

Durable medical equipment includes, but is not limited to:

- Hospital beds
- Intravenous poles and pumps
- Trapeze bars
- Toilet aids
- Bath and shower aids
- Standing aids
- Adaptive car seats
- Communication devices
- Related accessories

Hot tubs, spas, whirlpool baths, waterbeds, soft foam beds and pillows, and exercise equipment are not exempt because they are not primarily and customarily used to serve a medical purpose.

- Mobility enhancing equipment, including repair and replacement parts, dispensed pursuant to a prescription.<sup>2.\*\*</sup>

- Mobile enhancing equipment means equipment that:
  - ✓ is primarily and customarily used to provide or increase the ability to move from one place to another;
  - ✓ is appropriate for use in a home, in a person's community, or in a motor vehicle;
  - ✓ is not generally used by persons with normal mobility; and,
  - ✓ does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

Mobility enhancing equipment includes, but is not limited to:

- Wheelchairs and wheelchair components and accessories
- Walking aids, such as crutches, canes or walkers
- Grab bars, trapeze bars
- Lift chairs and patient lifts
- Motorized carts
- Scooters
- Controls installed on motor vehicles
- Related accessories

<sup>1</sup> "License provider" means any person authorized to prescribe drugs under the provisions of title 12, C.R.S., and includes, but is not limited to: physicians, dentists, podiatrists, advanced practical nurse, physician assistants, and veterinarians.

<sup>2</sup> These items are not exempt when used for animals because the reference to "person" in the definition of "prescription" in §39-26-717, C.R.S. does not include animals.

*Medicare, Medicaid, and workers' compensation reimbursements.* Purchases of nonexempt medical supplies by a non-governmental purchaser who is reimbursed by Medicare or Colorado Compensation Insurance (workers' compensation) do not qualify as an exempt purchase by a governmental entity and, therefore, are subject to sales tax, unless otherwise exempt by statute or regulation. If the vendor accepts Medicare assignment, the Medicare payment to the vendor includes sales tax and this tax must be remitted by the vendor to the Department of Revenue (Section 5213, Medicare Carriers Manual). If the vendor does not accept Medicare assignment, the vendor should remit that portion of the Medicare payment that represents sales tax, together with the sales tax computed on that portion of the total charge not covered by Medicare. Purchases of nonexempt medical supplies by a purchaser who is reimbursed by Medicaid also do not qualify as an exempt governmental purchase, but nonexempt medical supplies purchased directly by Medicaid are exempt from sales tax.

## **PRESCRIPTION**

Sales of prescription drugs are exempt if dispensed in accordance with a prescription by a licensed provider or furnished by a licensed provider as part of the licensed provider's professional services to a patient or client.

"Prescription" when referring to prescription drugs is an order in writing, dated, and signed by a licensed provider, or given orally by a licensed provider and immediately reduced to writing by the pharmacist, assistant pharmacist or pharmacy intern, specifying the name and address of the person for whom a medicine, drug or poison is ordered, and directions, if any, to be placed on the label. A prescription drug includes drugs dispensed or furnished for cosmetic purposes, such as removing skin wrinkles, and prescription drugs prescribed by veterinarians. A prescription drug exemption applies even if the person administering the drug is not a licensed provider, so long as the drug is dispensed in accordance with a licensed provider's prescription.

\*\* "Prescription," when referring to other medical items means any order in writing, dated, and signed by a licensed physician, physician's assistant, or advanced practice nurse with prescriptive authority, or given orally by such a person and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, or by a representative of a business licensed to sell items described in so long as such order is also followed by an electronic submission of the order to the business, specifying the name and address of the person for whom an item is ordered and direction, if any, to be included with such item.

## **PROSTHETIC DEVICES**

A prosthetic device is defined as an artificial part which aids or replaces a human or animal body part or function and which is designed, manufactured or adjusted to fit a particular individual. "Adjusted to fit a particular individual" means the prosthetic device must be altered solely for the use of a particular person or animal. A one-size-fits-all type of device that can be adjusted by the individual for a better fit does not qualify as a prosthetic device. Artificial breasts after a mastectomy, limbs, eyes, and cheekbone implants as part of reconstructive surgery, teeth and prescription glasses are examples of purchases which are considered to be exempt as prosthetic devices. Items purchased solely for cosmetic reasons, such as breast enhancement implants, cheekbone enhancement implants, collagen injections, and other similar items do not qualify as prosthetic devices. For more information, see General Information Letter: GIL-08-026.

## HOSPITALS

Supplies purchased by hospitals and nursing homes (hereafter referred to as hospitals) can generally be separated into three groups:

1. **Tax-Exempt Supplies. Patient supplies that are used on or by the patient.** Patient supplies that are furnished to a patient as part of a licensed provider's services and leave the hospital with the patient are exempt from sales tax, unless billed to the patient and separately stated on the invoice as described in paragraph 3 below.
2. **Taxable Supplies. Supplies used directly by the hospital.** This group includes many of the same types of supplies used by most businesses (for example: light bulbs, toilet paper, floor wax and office supplies). Some supplies in this category are peculiar to hospitals, such as X-ray film, hemostats, gowns, masks, linen and scalpels. This category also includes patient supplies furnished by the licensed provider, but disposed of at the hospital. Hospitals can buy hospital supplies tax-free if they qualify as a charitable entity and present their tax-exempt number at the time of purchase. For-profit hospitals must pay sales tax when they buy hospital supplies and equipment.
3. **Supplies that are used on or by the patient and sold to the patient are taxable.** A hospital may purchase items as a tax-exempt wholesale (sale-for-resale) if the items are used primarily by the patient and are separately stated on the patient's invoice. These include baby diapers, disposable razors, boxes of tissues, deodorant, mouthwash, hand lotion (even if medicated), baby bottles, denture cleaner and adhesive, slippers, shave kits, admission kits, sanitary pads, and tampons. Sales tax must be collected on the selling price of taxable patient supplies when separately stated on the invoice. Hospitals must present their sales tax number to vendors of taxable patient supplies in order to purchase such supplies tax-free for resale. Items used primarily by the hospital are not considered resold to the patient even if the items are separately stated on invoices, including scalpels, surgical masks and gloves, and hemostats. For more information, please see Private Letter Ruling: PLR 10-004.

## LICENSED PROVIDERS

Licensed provider includes, but is not limited to: medical doctors, podiatrist, physician assistants, nurses and practical nurses. Licensed providers in private practice generally do not qualify as charitable entities, so purchases made by licensed providers are taxable unless the item falls within one of the exemptions outlined above. The most common exemption is for materials and supplies furnished by the licensed provider as part of professional services to a patient. The phrase "furnished by a licensed provider" **means the material must leave the provider's office with the patient**, as opposed to being used by the doctor and then disposed of by the doctor. Disposable items used once for one patient and then discarded are considered to be consumed by the licensed provider, and are not provided by the licensed provider to the patient. Such supplies are therefore taxable. Prescription drugs are exempt if dispensed in accordance with a prescription by a licensed provider or furnished by licensed provider as part of professional services provided to a patient or client.

## WHEN IN DOUBT, TAX MUST BE PAID

Purchasers of medical supplies should understand that the vendor is liable for sales tax on all sales and the vendor has the burden of proof if a sale is exempt from sales tax. The vendor is required to have adequate records to prove the validity of the exemption. [§39-26-105(1)(c), C.R.S.] Any time a question exists as to whether a sale is taxable or exempt; the law requires that the vendor charge the sales tax and the purchaser pay the tax.[§39-26-102(22), C.R.S.] The purchaser then may file a Claim for Refund (DR 0137) with the Department of Revenue for a refund of the sales tax paid. The Department of Revenue must then determine the question of exemption.

## EXAMPLES OF TAXABLE AND EXEMPT ITEMS

The following lists are not necessarily exhaustive but are meant only as examples. If you have further questions about the taxability of particular medical supplies, write to: Colorado Department of Revenue, Policy Group, Room 603, PO Box 17087, Denver, CO 80217-0087. Written Department of Revenue replies to such questions may be regarded as adequate proof of an exemption in an audit.

## **LICENSED PROVIDER SUPPLIES**

Equipment and supplies sold to licensed providers are generally taxable. The following are supplies commonly purchased by licensed providers that are taxable:

- Cidex solution
- disinfectant
- disposable towels
- drape sheets
- latex gloves
- masks
- table paper
- thermometers
- tongue blades
- urine sample cups
- X-ray film
- X-ray supplies

Supplies that are exempt when sold to licensed providers if the licensed provider furnishes the item to the patient as part of the licensed provider's professional service and the material leaves the licensed provider's office with the patient:

- adhesive tape
- bandages
- casting material
- catheters
- dressings
- Lamino rolls
- Splints

The following fall under the definition of blood or urine tests, which are exempt:

- chemstrip
- dextrostix strips
- glucostix
- hematest
- microstix
- mono dri dot test  
(mononucleosis)
- multistix
- pregnancy test
- pregnosticon test
- rhuemonosticon

**PATIENT SUPPLIES**

Summary of the taxable status of medical supplies and equipment sold or rented to private individuals:

<b>Product Description</b>	<b>Exempt prior to 8/10/2011</b>	<b>Exempt after 8/10/2011</b>
air compressors (used for respiratory therapy)**	YES	YES
alternating pressure pumps/pads**	YES	YES
apnea monitors**	YES	YES
aspirators and suction equipment**	YES	YES
bath bench **	NO	YES
canes **	NO	YES
catheters, urinary and other**	YES	YES
commodes**	NO	YES
continuous passive motion machine**	YES	YES
CPAPS (adult apnea monitor)**	YES	YES
crutches**	NO	YES
eggcrate mattresses**	NO	YES
enteral formula (exempt as food)	YES	YES
enteral pumps**	NO	YES
gloves	NO	NO
glucose monitors**	YES	YES
glucose monitor supplies**	YES	YES
hospital beds**	YES	YES
incontinent supplies**	NO	YES
infusion pumps**	NO	YES
intermittent pulsating pressure breather**	YES	YES
IV poles**	NO	YES
medical grade oxygen**	YES	YES
nebulizers**	YES	YES
ostomy supplies**	YES	YES
overbed tables**	NO	YES
oxygen concentrators**	YES	YES
oxygen cylinders**	YES	YES
oxygen meter**	YES	YES
parenteral nutrition	YES	YES
patient lifts**	NO	YES
percussors**	YES	YES
pump cassettes**	YES	YES
sodium chloride**	NO	YES
sterile water **	NO	YES
surgical supplies **	NO	YES
surgical tape **	NO	YES
syringes **	NO	YES
TENS unit and muscle stimulator**	YES	YES
toilet seats**	NO	YES
tracheostomy supplies**	NO	YES
traction**	YES	YES
transfer board **	NO	YES
trapeze**	NO	YES
tubing**	NO	YES
ventilator **	YES	YES
walkers**	NO	YES
wheelchairs**	YES	YES
wheelchair lifts**	NO	YES

Drugs requiring a prescription are exempt, all other drugs are taxable.

## **PATIENT EQUIPMENT**

Purchases exempt when sold pursuant to a prescription<sup>2</sup>. \*\*

- alternating pressure
- pumps/pads
- aspirators
- continuous passive
- motion machine
- intermittent pulsating
- pressure breather
- muscle stimulator
- oxygen equipment
- suction equipment
- ventilator

## **HOSPITAL SUPPLIES**

Purchases exempt from sales tax if sold to a charitable organization, and taxable if sold to a non tax-exempt organization:

- cotton balls
- Culturette
- face mask
- icepacks
- linen
- moisture barrier
- net pants
- pads altura care
- room deodorizer
- rubber gloves
- sanitary belts
- sanitary pads
- scrub brush
- set feeding drip
- shroud
- sterile gown
- sterile towels
- swabstick
- thermometers
- tongue blade
- Tuck wipes
- under pads
- urine collector
- washcloths

The following are exempt purchases when furnished by a licensed provider as part of professional services:

- bandages
- boot cradle
- casting materials
- catheters
- elastic bandage
- gauze
- pressure roll
- splints

Purchases that are not exempt under §39-26-718(1)(a) or §39-26-717 C.R.S.  
Hospitals with resale numbers may purchase the following tax-free:

- admission kits
- adult diapers
- baby powder
- bath oil
- Chapstick
- commode pan
- denture brush
- denture powder
- deodorant
- disposable diapers
- disposable pillows
- foot cream
- garment bags
- ice bucket
- maternity kits
- pacifier
- shampoo
- shave cream
- skin care lotion
- slippers
- soap
- tampons
- tissues
- toothpaste

*\*These items became exempt effective July 1, 2011 as a result of SB11-263*

*\*\* These items became exempt effective August 10, 2011 as a result of HB11-1091 when sold pursuant to a prescription and meet the requirement listed under “EXEMPTIONS” on pages 1 & 2.*

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FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.