



## **FYI Sales 68**

# **Medical and Dental Supplies and Equipment**

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### **GENERAL INFORMATION**

This FYI is for the manufacturers and providers of medical equipment, supplies and services. The information pertains to state and state-collected taxes only. Home-rule cities may have their own tax regulations regarding medical and dental supplies and equipment and should be contacted directly. For information on local tax rates, see the publication Colorado Sales/Use Tax Rates (DR 1002).

Vendors and manufacturers who sell to medical service providers are considered to be retailers or wholesalers of tangible personal property and must collect sales taxes on nonexempt sales. Doctors and dentists (hereafter referred to as doctors) are service providers, and are generally not considered retailers of tangible personal property. Therefore, they are considered to be the consumers of the supplies they purchase and use in providing their services, and are taxed on their supplies under the special regulation for service enterprises. See FYI Sales 52 Special Regulation: Service Enterprises located on the Web site at [www.TaxColorado.com](http://www.TaxColorado.com)

### **EXEMPTIONS**

Colorado law provides an exemption from sales tax for certain items used in the medical field. Not all medical supplies and equipment are exempt, but only those specifically discussed in statute [§39-26-717 C.R.S.]. Exempt items are:

- Drugs dispensed in accordance with a prescription.
- 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.
- Wheelchairs and hospital beds.
- Corrective eyeglasses and contact lenses.
- All sales of drugs and materials when furnished to a patient by a doctor as part of professional services.
- Hearing aids including related accessories such as batteries, testers and hearing aid savers.
- 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.

Purchases of medical supply items reimbursed by Medicare or Colorado Compensation Insurance (Worker's Compensation) 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 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 medical supply items reimbursed by Medicaid are not subject to Colorado sales tax.

### **Prescription Drugs**

Regulation 39-26-717.1 defines "prescription" as "any order in writing, dated and signed by a practitioner, or given orally by a practitioner, 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."

### **Prosthetic Devices**

A prosthetic device is defined as an artificial part which aids or replaces a body part or function and which is designed, manufactured or adjusted to fit a particular individual. "Adjusted to fit a particular individual" means that the prosthetic device must be altered solely for the use of a particular person. A one-size-fits-all type of device that can be adjusted by the individual for a better fit, such as a pair of crutches, would not qualify as a prosthetic device.

Artificial breasts, limbs, eyes, teeth and prescription glasses are examples of purchases which are considered to be exempt as prosthetic devices. Crutches, canes, walkers and splints do not qualify for the exemption as prosthetic devices.

### **Therapeutic Devices**

Therapeutic devices, appliances, or related accessories which are used to correct or treat a human physical disability or surgically created abnormality are sales tax exempt. Note: Such devices and accessories with a total retail value of more than \$100 must be accompanied by a written recommendation from a licensed doctor in order to be exempt. The doctor should provide the written recommendation to the patient who, in turn, should provide a copy of the note to the vendor. Because the vendor has the burden of proving the validity of an exemption in a sales transaction, the vendor needs a copy of the written recommendation to meet the burden of proof.

A therapeutic "device" is defined as a piece of equipment or a mechanism designed to serve the special purpose of correcting or treating a human physical disability or surgically-created abnormality. An "appliance" is defined as a piece of equipment for adapting a tool or machine to a special purpose. In order to qualify for the exemption as a therapeutic device, an item must be a piece of equipment or a mechanism. This term suggests a degree of permanence, with the capability of repeated use, as opposed to a supply item that may be used once and then discarded. In addition, the item must be devised or constructed for the particular purpose of healing or curing a human disability or surgically-created abnormality.

Catheters, tracheostomy supplies, heel protectors, boot cradles and support hose are examples of items that are therapeutic but which do not qualify as therapeutic devices because they do not meet the definition as equipment.

Hot tubs, spas, whirlpool baths, waterbeds and exercise equipment do not qualify as therapeutic devices because these items are not designed specifically for therapeutic purposes.

### **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 doctor's professional 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 that are furnished by the doctor, but disposed of at the hospital. The Department of Revenue allows charitable, non-profit hospitals to buy hospital supplies tax-free if they 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.** Patient supplies are taxable when separately stated on the invoice or bill and therefore resold to the patient. These would 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, egg crate mattress pads, sanitary pads, and tampons. Sales tax must be collected on the selling price of taxable patient supplies when separately stated on the invoice or bill. Hospitals should present their sales tax number to vendors of taxable patient supplies in order to purchase such supplies tax-free for resale.

### **DOCTORS**

Doctors in private practice would not have charitable status, so most purchases made by doctors are taxable. Exempt supplies purchased by doctors are only those drugs and materials furnished to a patient as part of the doctor's professional services. The phrase "furnished by a doctor" (see Exemptions section, page 1) **means the material must leave the doctor'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 doctor, and are not provided by the doctor to the patient. Such supplies are therefore taxable.

## **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)]. 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: Conferees, Department of Revenue, 1375 Sherman St., Denver, CO 80261. Written Department of Revenue replies to such questions may be regarded as adequate proof of an exemption in an audit.

## **DOCTOR SUPPLIES**

Equipment and supplies sold to doctors are generally taxable. The following are supplies commonly purchased by doctors 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 doctors if the doctor furnishes the item to the patient as part of the doctor's professional service:

- adhesive tape
- bandages
- casting material
- catheters
- dressing
- 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:

Product Description	Taxable	Exempt
air compressors (used for respiratory therapy)		X
alternating pressure pumps/pads		X
apnea monitors		X
aspirators and suction equipment		X
bath bench	X	
canes	X	
catheters, urinary and other	X	
commodes	X	
continuous passive motion machine		X
CPAPS (adult apnea monitor)		X
crutches	X	
eggcrate mattresses	X	
enteral formula (exempt as food)		X
enteral pumps	X	
gloves	X	
glucose monitors		X
glucose monitor supplies		X
hospital beds		X
incontinent supplies	X	
infusion pumps		X
intermittent pulsating pressure breather		X
IV poles	X	
medical grade oxygen		X
nebulizers		X
ostomy supplies		X
overbed tables	X	
oxygen concentrators		X
oxygen cylinders		X
oxygen meter		X
parenteral nutrition		X
patient lifts	X	
percussors		X
pump cassettes		X
sodium chloride	X	
sterile water	X	
surgical supplies	X	
surgical tape	X	
syringes (insulin syringes are exempt)	X	
TENS unit and muscle stimulator		X
toilet seats	X	
tracheostomy supplies	X	
traction		X
transfer board	X	
trapeze	X	
tubing	X	
ventilator		X
walkers	X	
wheelchairs		X
wheelchair lifts	X	

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

**PATIENT EQUIPMENT**

Purchases exempt when used as a therapeutic device; purchases and rentals of more than \$100 require a doctor's recommendation:

alternating pressure pumps/pads aspirators continuous passive motion machine	intermittent pulsating pressure breather muscle stimulator	oxygen equipment suction equipment ventilator
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**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
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The following are exempt purchases when furnished by a doctor as part of professional services:

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