

SOME SUPPLIERS CONTINUE TO TAX DENTAL EQUIPMENT AND SUPPLIES

Tax Department Rules Dental Items Exempt

In the April 1997 VSDS newsletter, we published the article "Sales And Use Tax—Dental Equipment And Supplies Exemption" to inform members that the only items of dental equipment and supplies that are subject to sales and use tax are: mouth guards not part of dental treatment, gowns and jackets, face masks and items of a hygienic nature (toothbrush, floss, etc.) when sold to a patient. The article is reprinted on page 9 of this newsletter for your information.

In spite of the publication of the article, at least two dental suppliers continued to bill for "use" taxes. In response, the Society sought another ruling from the Vermont Department of Taxes to further reiterate that nei-

ther sales nor use taxes are applicable to dental equipment and supplies except as noted in the April 1997 VSDS newsletter article.

Ruling 97-06 is in response to the Society's request. While this ruling focuses on taxation of toothbrushes, it reconfirms that:

"...medical and dental equipment and supplies are exempt from tax...items which are primarily hygienic or preventative in nature are not exempt."

In regard to the primarily hygienic or preventative items, the Ruling states:

"... toothbrushes, floss, and similar items of nominal value given by

continued on page 6

Tax Department Provides Formal Ruling

continued from page 1

dentists and hygienists to patients during treatment are supplies in treatment intended to alleviate human suffering or to correct, in whole or in part, human suffering or to correct in whole or in part, human physical disabilities and are not subject to sales or use tax when purchased by dentists."

Below is Formal Ruling 97-06 printed in its entirety for members to share with suppliers who may question the directive.

August 13, 1997

Peter F. Taylor

Executive Director

Vermont State Dental Society

100 Dorset Street, Suite 18

South Burlington, Vermont 05403

FORMAL RULING 97-06

Dear Mr. Taylor:

"Your letter of June 16, 1997 asked for a ruling on whether toothbrushes provided by dentists to patients incidental to treatment were subject to sales and use tax.

Dentists and dental hygienists often provide toothbrushes, floss, or similar supplies to patients during treatment sessions. These items are provided without separate charge and have retail value of only a dollar or two, a value which is not significant in light of the entire charge for the treatment. The Department offered advice informally several years ago, first holding that the dentists' purchase of the toothbrushes was subject to sales or use tax, then agreeing that an exemption applied. This advice, however, was never confirmed in writing. A recent letter ruling, No. 96-11, held that these items are taxable when sold by dentists but did not directly rule on whether they were taxable when given to patients without a specific charge.

Sales of tangible personal property are subject to the Vermont sales and use tax unless an exemption applies. 32 V.S.A. 9771. Section 9741(2), the "medical exemption",

provides an exemption for certain medical supplies and equipment, including "...dental devices and instruments...dental equipment (including component parts thereof)...supplies used in treatment intended to alleviate human suffering or to correct, in whole or in part, human physical disabilities...". Regulation 1.9741(2)-1 provides a test for determining whether a product is exempt:

(a) Medical and dental equipment and supplies are exempt from tax if they are the type of items which are commonly and primarily used in treatment, including self-treatment, intended to alleviate human suffering or to correct human physical disabilities. Such items must be designed primarily to cure, correct, or reduce the severity of human ailments, injury or disabilities. Items which are primarily hygienic or preventative in nature are not exempt.

Under this test, items such as toothbrushes and dental floss are not exempt because they are primarily hygienic or preventative. Because of this, sales to individuals, whether by stores or by dentists are taxable. The Department, however, assumes that treatments by medical and dental professionals are to alleviate or correct a medical condition. It will not disqualify from exemption supplies which these professionals use, solely because they have a preventative or hygienic purpose of the use. Furthermore, the Department recognizes that the dispensing of supplies of nominal value for self-treatment is a legitimate part of the treatment by the professional.

Therefore, toothbrushes, floss, and similar items of nominal value given by dentists and hygienists to patients during treatment are supplies used in treatment intended to alleviate human suffering or to correct, in whole or in part, human disabilities and are not subject to the

sales or use tax when purchased by dentists.

This ruling will be made public after deletion of the parties' names and any information which may identify the parties. A copy of the ruling showing the proposed deletion is attached, and you may request, within 30 days, that the Commissioner delete any further information which might tend to identify parties. The final discretion as to deletions, however, remains with the Commissioner.

This ruling is issued solely to your firm and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayers or in the case of any change in the relevant statute or regulations.

3 V.S.A. 808 provides that this ruling will have the same status as an agency decision or order in a contested case. You have the right to appeal this ruling within thirty (30) days.

Sincerely yours,

George H. Phillips
Tax Policy Analyst

Approved This 21 day
of August 1997

Edward W. Haase
Commissioner of Taxes