



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

GRETCHEN WHITMER
GOVERNOR

RACHAEL EUBANKS
STATE TREASURER

August 14, 2024

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: [REDACTED] Request for TAL re [REDACTED]

Dear [REDACTED]:

Thank you for your letter dated July 15, 2024, requesting guidance on the taxability of [REDACTED]. Revenue Administrative Bulletin 2016-20 describes procedures for issuing various types of guidance to taxpayers. Your request meets the requirements for issuance of a technical advice letter.

According to your letter, the taxpayer sells medical devices to healthcare professionals, and in particular focuses on single-use devices. Your inquiry relates to a [REDACTED] sold by the taxpayer. You describe the product as a [REDACTED] typically used during routine or minimal risk surgical procedures where anesthesia is administered to the patient. Its duration of use ranges from 1-4 hours but most typically from 1-2 hours. After this surgical use, the product is removed and disposed of, not to be used again.

Your current understanding is that the product described does not meet the definition of a prosthetic device as defined in section 4ff(c) of the Michigan Sales Tax Act, MCL 205.54ff(c). You currently collect and remit the sales tax on sales of this product. You have asked the Department to confirm your understanding because you were recently informed by one of your customers' agents that the product is a prosthetic device and therefore exempt from sales tax. You did not provide any basis upon which the source of this information relied for their understanding that the product rises to the level of a prosthetic device under the Sales Tax Act.

The product is tangible personal property and is taxable as such under the Act unless otherwise exempt. See MCL 205.52(1). There are two exemptions for prosthetic devices under the Sales Tax Act. While section 54a(1)(k) pertains to implantable prosthetic devices dispensed pursuant to a prescription, as you correctly note, section 54ff, which pertains to implantable prosthetic devices sold to a hospital or surgical facility, pertains to your sales transactions.

Under section 54ff(c), a "prosthetic device" is defined, in part, to require that the device be "worn on or in the body." In this case, the product is temporarily inserted into the patient's body for the purpose [REDACTED] and are removed once the [REDACTED]

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procedure has been completed. Because it is inserted and removed in the same medical procedure, such a device is not “worn on or in the body” for the purposes of the “prosthetic device” exemption. Furthermore, even assuming the device was worn on or in the body for purposes of the exemption it does not replace a missing portion of the body, prevent or correct a physical deformity or malfunction of the body, or support a weak or deformed portion of the body as required by the definition of prosthetic device. MCL 205.54ff(2)(c). Consequently, the sale of such devices is taxable in Michigan.

This letter is limited to the transaction and facts described herein. If you have any follow-up questions, please do not hesitate to contact me at 517-335-7424.

Sincerely,

/s/ Dave Matelski

Dave Matelski
Administrator, Tax Policy Division