



**DEPARTMENT OF TAXATION**

STATE OF HAWAII

October 16, 1986

**TAX INFORMATION RELEASE** No. 86-4

RE: Exemption from the General Excise Tax for Amounts Received for the Sale of Prescription Drugs and Prosthetic Devices

Act 306, Session Laws of Hawaii, 1986, (H.B. No. 2580-86, H.D. 1, S.D. 2, C.D. 1), amended Section 237-24, Hawaii Revised Statutes (HRS), by adding a new paragraph (23). It provides an exemption from the general excise tax for those amounts received by a hospital, infirmary medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This exemption does not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices.

"Prescription drugs" are those drugs required to be prescribed by a practitioner licensed under law to administer the drug and which are dispensed and sold by a licensed pharmacist under Section 328-16, HRS.

"Prosthetic device" means any artificial device or appliance used to replace a missing or surgically removed part of the human body prescribed by a licensed practitioner of medicine, osteopathy, or podiatry; provided that "prosthetic device shall not mean any auditory, ophthalmic, dental, or ocular device or appliance."

For purposes of administering this Act, the Department of Taxation relied on paragraph (4) of Section 328-1, HRS, for the definition of the word "drug." As defined, the word means (A) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (C) articles (other than food) intended to affect the structure or any function of the body of man or animals; and (D) articles intended for use as a component of any article specified in clause (A), (B), or (C), but does not include devices or their components, parts or accessories.

Prescription Drugs

WHO qualifies?

Licensed pharmacists under §328-16, HRS.

Physicians, dentists, and other practitioners will be allowed.

Drug manufacturers, distributors, and dealers that sell to a hospital, infirmary, medical clinic, health care facility, or pharmacy are not allowed.

Prosthetic Devices

Hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the prosthetic device(s) to an individual. (Note: To date, there is no licensing requirement to administer the "prosthetic device.") Nonetheless, dealers of prosthetic devices will be allowed the exemption.

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WHAT qualifies?

All drugs as defined above (§328-1, HRS) when prescribed by a practitioner licensed under law to administer the drug. They must be prescribed for the treatment of a human being. Examples of prescription drugs include over-the-counter drug, prescribed by physician, dentist, and other licensed practitioner; refillable prescription drugs; insulin prescribed by a physician; and prescription drugs with a dispensing carrier unit/kit.

Examples of sales of items or merchandise considered not exempt include over-the-counter drugs sold without a prescription or drugs to be used for animals or other pets; medical supplies and devices such as bandages, thermometers, hypodermic needles, diaphragm syringes, gauzes, orthopedic support, inhalation extender devices, food products/supplements, dietary supplements, prophylactics, contact lens preparations, and the like.

All prosthetic devices as defined above. In addition, replacement parts for prosthetic devices furnished pursuant to the prescription by a licensed practitioner of medicine, osteopathy, or podiatry will qualify as a prosthetic device.

Some common examples of devices that do not qualify include wheelchairs, crutches, canes, quad canes, and walkers.

Prescription Drugs

Prosthetic Devices

WHERE does one apply to qualify?

A qualified licensed pharmacist need not register with the Department. Instead, the pharmacists should report the exempt amount on their general excise tax returns filed with the Department.

The qualified organization need not register with the Department. However, the organization should report the exempt amount on their general excise tax returns filed with the Department.

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WHEN does one qualify?

Effective July 1, 1986

Effective July 1, 1986

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HOW does one account for the exempt amounts?

As a seller, one is required by the General Excise Tax Law to keep adequate records showing gross income or gross proceeds of sales, regardless whether the income is taxable or nontaxable. Such records must also show all deductions/exemptions allowed by law and claimed on the tax return(s). Moreover, the records should reflect the total purchase price of all property purchased for sale or consumption in Hawaii.

(Same)

These records must include:

- . The normal books of account;
- . All bills, receipts, invoices, cash register tapes;
- . Prescriptions filled for prescription drugs and prosthetic devices, or other documents of original entry supporting the entries in the books of account;
- . All schedules or working papers used in connection with the preparation of the tax returns; and
- . All other documentation supporting the claimed deduction/exemption from point-of-sale to the prescription.

Prescription Drugs

Prosthetic Devices

HOW long does one keep such records?

Keep records for three years.

(Same)

Failure to keep suitable records could result in penalties.

(Same)

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WHY were these amounts exempted?

The legislative purpose of this Act is to provide an exemption for amounts received for the sale of prescription drugs and prosthetic devices under the general excise tax. It is anticipated that the tax savings enjoyed by the sellers will be passed-on to their customers.

(Same)

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