



Insight into Sales Tax in the Healthcare Industry

As a national leader in the accounting industry, Dixon Hughes Goodman LLP (DHG) is well-established in the healthcare industry for audit, tax and consulting services. Within our diverse tax practice, we offer a group of dedicated tax professionals that focus solely on sales and use tax. Through our experience in the healthcare industry, our sales tax group is able to assist our healthcare clients that are paying sales tax, or accruing use tax, on a substantial portion of medical-related supplies. DHG can explore potential refund opportunities with our healthcare clients, and also provide guidance on prospective treatment of exempt items, reducing future spending.

Many states offer some form of exemption to healthcare companies and individuals who purchase medical supplies. However, the rules in each state can be highly nuanced, so many vendors take a conservative approach, charging sales tax, unless specifically instructed by their client to exempt specific medical products. This process, although seemingly straightforward, can become convoluted, involving impediments to get the vendor comfortable with not applying sales tax.

DHG's sales tax professionals have considerable experience in analyzing purchase data to determine whether or not sales tax is being overpaid. In the likely event that it has, DHG

employs a streamlined process to (1) obtain the necessary documentation, (2) file refund claims in an efficient manner, and (3) minimize disruptions to our clients' day-to-day operations. Through our experience and relationships with various state department of revenues, DHG is able to stay abreast of the refund process after claims have been submitted.

The fee structure of these engagements may be offered in several ways to accommodate each client's needs and available resources. Prior to engagement, we can explore all available options with our clients to ensure they are selecting the option that is best suited for them.

NAVIGATING DISPARATE STATE GUIDANCE

The exemptions available in the healthcare space can be highly intricate and vary from state to state. DHG has the experience and necessary resources to review these purchases for any state. The following state-specific examples illustrate some of the more prevalent opportunities that exist.

ALABAMA

Historically, Alabama has provided an exemption for prescription drugs, as well as oxygen and durable medical equipment, in certain instances. In August 2014 Ala Code 40-9-30 was amended to expand the exemption to cover “any items used for the treatment of illness or injury or to replace all or part of a limb or internal body part purchased by or on behalf of an individual pursuant to a valid prescription and covered by and billed to Medicare, Medicaid or a health benefit plan...” This includes the following:

- Durable medical equipment, including repair parts and the disposable, or single patient use, supplies required for the use of the equipment
- Medical oxygen, related equipment and supplies
- Prosthetic and orthotic devices
- Medical supplies, as defined and covered under the Medicare program

The most prominent element to the expanded exemption is the requirement to be covered by, and billed to, Medicare, Medicaid or a health benefit plan. In accordance with this significant modification, the Alabama Department of Revenue amended Ala Reg. 810-6-5-.29 to address the application of the exemption, including the “covered by and billed to” language. The Department also discusses how the exemption applies to healthcare providers that maintain an inventory of medical supplies, who, at the time of purchase, do not know how the supplies will ultimately be billed.

While these changes in Alabama have broadened the potential exemptions for healthcare providers, there are several factors that must be considered before determining whether or not a purchase is ultimately nontaxable. DHG is able to help our healthcare clients navigate these complex exemptions by leveraging our experience with the types of purchases that typically qualify, and our internal expertise in the medical billing space.

FLORIDA

Florida provides several exemptions for medical products, including:

- Prosthetic and orthopedic appliances
- Prescription drugs
- Certain medical gases
- Chemical compounds and test kits
- Certain medical products, supplies and devices

While most of these categories are straightforward, there are specific elements that must exist for a medical product, supply or device to qualify. For example, a medical supply would qualify if it is temporarily or permanently incorporated into a patient by a licensed physician such as an implant. Also, the medical supply would qualify if it meets both of the following requirements (as provided by Rule 12A-1.020, F.A.C.):

1. The medical product, supply or device must be dispensed under federal or state law, only by the prescription or order of a licensed practitioner; and
2. The medical product, supply or device is intended for use on a single patient, and is not intended to be reusable.

DHG’s sales tax team has successfully processed numerous sales tax refund claims under the basis of this exemption. We are familiar with the types of products that qualify, the vendors that typically charge tax on these purchases, and the documentation needed by the Department to substantiate a refund claim.

TENNESSEE

In 2008, Tennessee adopted new or revised definitions of several medical categories and clarified the exemptions for each. The following summarizes Tennessee's treatment of the primary categories.

- **Prosthetic Devices** – prosthetic devices for human use are exempt from tax. In order to qualify, the device must be worn on or in the body. A prescription is not required to qualify for the exemption.
- **Durable Medical Equipment** – DME is exempt from tax if it is for home use and dispensed pursuant to a prescription for human use.
- **Mobility Enhancing Equipment** – mobility enhancing equipment is exempt from Tennessee sales tax if it is dispensed pursuant to a prescription for human use.
- **Other** – Tennessee also offers several other exemptions including insulin syringes, disposable ostomy products, oxygen delivery equipment and kidney dialysis equipment.

In addition to analyzing exemptions available for medical purchases, DHG also has extensive experience with the application of the “single article” rule in Tennessee. If a healthcare company is buying or leasing a single taxable item costing more than \$3,200, the item could be afforded a reduced sales tax rate on the portion above this amount. We routinely analyze large-ticket items in Tennessee for our clients to determine whether or not the single article rules apply and if sales tax has been overpaid.

If you have any questions or would like additional information, please contact:

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GEORGIA

Georgia provides several medical exemptions, including:

- Durable medical equipment
- Prescription drugs
- Prosthetic devices
- Mobility enhancing equipment
- Oxygen
- Insulin and related supplies
- Hearing aids

In Georgia, the qualifying factors can vary for each of these categories. For example, durable medical equipment will qualify if it is sold to a patient pursuant to a prescription; however, it would not qualify if the equipment is used by a healthcare provider in providing a medical service.

With our depth and breadth of experience, DHG's sales tax team can strategically analyze the purchases for each of these categories and help our clients determine what will qualify for a refund in their respective state. If there is a refund claim filed, we will leverage our insight with the refund process, and close proximity to the Department's headquarters, to ensure the refund claim is being processed as efficiently as possible.