

NEBRASKA SALES AND USE TAX FOR PHYSICIANS

Physician

For purposes of Nebraska sales and use tax, a physician is a medical practitioner licensed under the Uniform Credentialing Act who is authorized to prescribe drugs (not over-the-counter), oxygen, prosthetic devices, mobility enhancing equipment, durable medical equipment, or home medical supplies within the scope of his or her practice.

Prescription

For purposes of this information guide prescription means an order for a drug, device, or refill in writing, orally, or electronically by a physician for human use.

All original prescriptions must be filed and available for inspection by the Department of Revenue. When a sale is made to refill a prescription, the records of the retailer must show the identification number of the original prescription.

WHAT'S TAXABLE

Purchases by Physicians

Physicians are consumers of the items used in providing examinations, testing, or diagnosis and must pay the Nebraska and any applicable city or county (local option) sales tax to their suppliers on all purchases and leases of such items.

If the vendor does not collect the appropriate local option sales tax or the item is purchased from an unlicensed seller, the physician is responsible for paying consumer's use tax on the cost of the taxable item.

Purchases of items such as those below are taxable even when purchased outside of Nebraska at trade shows, conventions, symposiums, or through an Internet seller.

See "Consumer's Use Tax" below for more details on paying the consumer's use tax.

Taxable purchases include, but are not limited to:

✓ Medical supplies used by the physician including:

- blood collection tubes
- cures
- disposable gloves
- exam table paper
- eye charts
- lab solutions
- lubricants
- non-prescription medications, ointments, salves, and sprays
- safety equipment
- scalpels
- slides
- sponges
- syringes
- tongue depressors
- trays
- tubing
- uniforms, scrubs, shoe covers, and masks
- urine collection cups
- x-ray film

✓ Durable medical equipment used by the physician including:

- anesthesia machines
- audiology equipment
- beds
- blood pressure equipment
- chair scales
- collection basins
- crash carts
- defibrillators
- EEG equipment
- EKG equipment
- exam and surgical tables
- glucose meters
- IV poles
- MRI/CT scanners
- ophthalmoscopes
- overbed tables and trays
- programmable drug infusion pumps
- radiology equipment
- respiratory equipment
- resuscitators
- stationary monitors
- stethoscopes
- thermometers
- traction equipment
- ultrasound equipment
- x-ray equipment
- maintenance, repair, calibration, and equipment certification services
- parts for equipment

✓ Office/business equipment, non-medical supplies, and taxable services including:

- advertising or promotional items given away or donated
- building or office cleaning services
- computer hardware and software
- drug and information brochures
- file folders
- magazine subscriptions
- maintenance and service agreements
- office furniture
- office supplies
- paper and linen towels
- paper products
- pest control services
- professional journals and reference materials
- security services
- telephones and communication equipment
- utilities

Any related charges for shipping and handling, unless shipped by common carrier, are also taxable.

Consumer's Use Tax

The tax is paid directly to the Department of Revenue. In addition, deliveries of these items to physicians located within the boundaries of a city or county that has a local option sales tax must also remit the local use tax on taxable purchases.

The Nebraska and local option use tax is remitted as follows:

- ✓ If you have a sales tax permit, the Nebraska and local consumer's use tax is reported on the appropriate consumer's use tax lines of your Nebraska and Local Sales and Use Tax Return, Form 10.
- ✓ If you do not have a sales tax permit, the Nebraska and local consumer's use tax is reported on a Nebraska and Local Consumer's Use Tax Return, Form 2.

WHAT'S EXEMPT

Professional Services

Charges for professional services rendered by physicians are not taxable.

Tax-Free Purchases

- Insulin purchased with or without a prescription.
- Prescription drugs, excluding over-the-counter drugs, that are recognized by the U.S. Pharmacopoeia, U.S. Homeopathic Pharmacopoeia or National Formulary for human use which are intended for use in the diagnosis, cure, or treatment of disease, or to affect the structure or function of the body. These drugs must have been prescribed in writing, orally, or electronically by a physician and recorded, signed, and filled by a licensed pharmacist. Over-the-counter drugs (drugs containing a label as required by 21C.F.R. 201.66.) that can be purchased without a prescription do not qualify for this exemption even if they are prescribed. Prescription drugs do not include grooming or hygiene products such as soap, toiletries, and cosmetics.

Physicians are not required to remit consumer's use tax on sample drugs which are given to them free of charge by drug company salespersons.

Documentation needed for exemption of the above products: No Nebraska Resale or Exempt Sale Certificate, Form 13, is required for these purchases. The physician is required to maintain records, separate from confidential patient records, showing that such products were prescribed to patients.

Physicians are also consumers of prosthetic devices, oxygen and oxygen equipment, and home medical supplies used to treat patients. The physician may purchase these products exempt from sales and use tax only if the patient could have purchased the same products exempt from tax. The three tests for patient exemption are:

- (a) **The product is only intended for use by a single patient;**
- (b) **The product is prescribed by the physician; and**
- (c) **The product is a type of product that is eligible for coverage under the Nebraska Medical Assistance Act (Medicaid).**

See the three check-marked categories below and their specific descriptions. Examples of products which are exempt are:

✓ Oxygen and oxygen equipment including:

- concentrators
- cylinder transport devices (i.e., sheaths and carts)
- face masks
- flowmeters
- liquid oxygen base dispensers and portable dispensers
- nasal cannulas
- oxygen cylinders
- oxygen fittings and accessories
- oxygen humidifiers
- oxygen tubing
- regulators
- tank wrenches

- ✓ Prosthetic devices which are replacement, corrective, or supportive devices worn on or in the body to replace a missing portion of the body, to prevent or correct a physical deformity or malfunction, or to support a weak or deformed portion of the body. Prosthetic devices include any supplies used with them and related repair and replacement parts. Examples include:

- ambulatory surgical boots
- anti-embolism stockings
- artificial limbs
- burn garments (pressure)
- cervical collars
- cochlear devices
- edema gloves
- hearing aids
- full sole and heel wedges, between sole
- implanted maxillofacial devices
- insulin pumps
- materials and supplies to make casts
- nerve stimulators worn on the body
- ostomy bags, pouches, tubes, valves, barriers, adhesives, belts, and stoma caps
- prescription eyeglasses
- shunts

- ✓ Home medical supplies are supplies primarily and customarily used to serve a medical purpose, and are appropriate for use **in the home**. They are not generally useful to a person in the absence of illness or injury. Examples include:

- alcohol wipes and pads
- body fluid collection bags
- chem strips
- disposable tubing such as suction tubes, chest drainage tubes, heating tubes, and cannula
- glucose test strips
- intravenous sets and pumps
- ostomy lubricants, protectants, and sealants
- syringes

Home medical supplies do not include any drugs or items for personal comfort, hygiene, or cosmetic purposes.

Documentation needed for exemption based upon patient's use: The physician must present the vendors of these products with a completed and signed Nebraska Resale or Exempt Sale Certificate, Form 13. The physician must complete section B, category 2, and complete the description of the product and the intended use (for instance - prescribed use as a prosthetic device).

Retail Sales of Exempt Products

When the physician charges the patient a separate amount for or there are no professional services rendered at the time of the sale of oxygen and oxygen equipment, prosthetic devices, durable medical equipment, home medical supplies, and mobility enhancing equipment, the physician is making retail sales and the products sold may be purchased for resale. The doctor must collect sales tax on their sale unless the patient meets all three tests below:

- The product is only intended for use by a single patient;
- The product is prescribed by the physician; and
- The product is a type of product that is eligible for coverage under the Nebraska Medical Assistance Act (Medicaid).

The descriptions and sample lists for patients are the same for patients as listed previously for physicians for oxygen and equipment, prosthetic devices, and home medical supplies. The additional descriptions for durable medical equipment and mobility enhancing equipment and sample products are listed below:

- ✓ Durable medical equipment is equipment that can withstand repeated use and is primarily and customarily used to serve a medical purpose **in the patient's home**. It is not generally useful to a person in the absence of illness or injury, and is appropriate for use in the home. Durable medical equipment includes repair and replacement parts. Examples include:

- apnea monitors
- bed pans
- cervical traction equipment
- glucose monitors and supplies
- hospital beds (for in home use)
- infusion pumps
- IV poles for parenteral or enteral nutrition
- parenteral or enteral infusion pumps
- percussors, electric or pneumatic (home model)
- thermometers
- vaporizers, room type

Durable medical equipment does not include equipment used in providing the physician's professional services. Only durable medical equipment sold separately from those services to the individual patient for home use may qualify for the exemption.

Durable medical equipment does not include exercise equipment, recliners, vibrators, or hot tubs.

Mobility enhancing equipment is equipment that enables a disabled or handicapped person to enter, exit, or move from one place to another in the patient's home. It also includes equipment installed on a motor vehicle to make the motor vehicle suitable for use by a disabled or handicapped person. Mobility enhancing equipment includes any replacement or repair parts. Examples include:

- canes
- crutches
- handrails and grab bars
- patient lifts
- raised toilet seats
- transfer belts
- walkers
- wheel chairs

Mobility enhancing equipment does not include equipment used in providing the physician’s professional services. Only mobility enhancing equipment sold separately from those services to the individual patient for home use may qualify for the exemption.

GENERAL INFORMATION

Keeping Records For Tax Purposes

Physicians are required to keep records to determine the amount of tax due and the amount exempt from tax on purchases, for three years after the filing of a Nebraska sales and use tax return or 5 years if no sales and use tax return was filed.

These records must include the normal accounting records ordinarily maintained by the physician and the schedules and working papers used to compute the tax liability.

Sales and purchase invoices, receipts, Medicaid and Medicare billing forms, resale and exempt sale certificates, and non-confidential records (i.e., records not regulated by HIPAA, such as vendor invoices of devices, or prescription drug inventory records) substantiating the prescription of drugs, oxygen, prosthetic devices, durable medical equipment, mobility enhancing equipment, and home medical supplies must also be kept to document any exempt sales or purchases.

Tips: Keep adequate documentation for tax purposes to support claimed exemptions. Keep those documents out of confidential files, which cannot be reviewed by the Department. In the case of audit or review, these two tips keep the physician from paying any sales and use tax due to missing or inaccessible records.

Medical Records

Charges for copies of medical records are subject to state and local sales and use tax.

The total amount charged for Release of Information (ROI) services is subject to tax when the copies are delivered to a location within Nebraska. ROI is taxable since the primary purpose for using this service is to obtain tangible photocopies of medical records. The total amount subject to tax includes any staffing, postage, or handling fees included in the charge.

Charges for copies of medical records provided to the patient or a person holding that patient’s power of attorney for health care are exempt from sales and use tax.

Copies of medical records sold to Medicare, Medicaid, and to exempt entities are exempt from the sales and use tax.

Obtaining a Permit

A Nebraska Sales Tax Permit is obtained by completing a Nebraska Tax Application, Form 20, and returning it to the Department of Revenue. This form is available on our Web site.

Physicians Operating Medical Facilities

Purchases by for-profit medical facilities are subject to tax in the same manner as purchases by physicians. Purchases by not-for-profit medical facilities that do not have an exemption certificate are subject to tax in the same manner as purchases by physicians. The for-profit medical facility must maintain copies of documentation in the same manner as a physician.

Private Insurance Companies

Items paid for by a private insurance company are not necessarily exempt from sales and use tax. Only those items that meet the requirements listed above are exempt from the sales tax, regardless of the method of payment.

Sales to Exempt Medical Facilities

Physicians selling medical supplies, equipment, or records must collect tax unless the sale is to one of the specific health care facilities listed in Nebraska Sales and Use Tax Regulation 1-090.

For a complete list of exempt organizations, please see our Information Guide on Nebraska Taxation of Nonprofit Organizations.

The exempt entity must complete and sign a Nebraska Resale or Exempt Sale Certificate, Form 13, complete section B, using exemption category 3, and provide its Nebraska exemption number which begins with the prefix 05.

This information guide is intended to provide an overview of Nebraska sales and use tax laws that apply to physicians. Nothing in this guide supersedes, alters, or otherwise changes any provisions of the Nebraska statutes, regulations, Department rulings, or court decision.

www.revenue.ne.gov

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