**Private Letter Ruling**

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| **Ruling Number:** | **P-2005-014** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales of implantable medical devices to treat spinal stenosis.** |
| **Keywords:** |  |
| **Approval Date:** | **06/01/2005** |

**Body:**

Office of Policy & Research

June 3, 2005

XXXXX
XXXXX
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XXXXX

Dear XXXXX:

I have been asked to answer your letter dated May 23, 2005. In it, you inquired about your new device, a motions preserving implant that is placed surgically between the spinous processes, and whether or not it would be subject to Kansas retail sales tax if purchased by a for-profit hospital.

The new device would be classified under our exemption listed under Kansas statute as K.S.A. 79-3606(r) as stated below:

(r) all sales of prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and replacement parts therefore, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

This is a private letter ruling pursuant to K.A.R. 92-19-59. It is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to an accurate determination by the department, this ruling is null and void. This ruling will be revoked in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,

Thomas P. Browne, Jr.
Tax Specialist

DVL

**Date Composed: 06/03/2005 Date Modified: 06/03/2005**