



This Week in State Tax (TWIST)

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California: Appellate Court Says Heart Monitors Do Not Qualify for Exemption

The California Court of Appeal, First Appellate District recently affirmed that a taxpayer's cardiac monitoring devices do not qualify for exemption as "medicine" under California sales and use tax law. The taxpayer manufactures cardiac monitors designed to be implanted subcutaneously in the body to record electrocardiograms necessary for physicians to diagnose and manage cardiac conditions. After remitting sales tax on these devices, the taxpayer sought a refund, asserting that the devices should be exempt as "medicine" under state law. Following unsuccessful administrative appeals, the taxpayer pursued legal action, which resulted in a trial court granting summary judgment in favor of the California Department of Tax and Fee Administration. The taxpayer subsequently appealed.

Under California law, sales of "medicine" are exempt from the state sales and use tax. The statutory definition of "medicine" (Rev. & Tax Code sec. 6369) encompasses substances or preparations intended for internal or external application to the human body for diagnostic or therapeutic purposes. The statute explicitly excludes from the exemption items such as "splints, bandages, ... instruments, apparatus, contrivances, appliances, [and] devices," but then contains a proviso to exempt specifically "bone screws, bone pins, pacemakers, and other articles ... permanently implanted in the human body to assist the functioning of any natural organ,"

The taxpayer contended its cardiac monitors, being permanently implanted, should be classified as "medicine" because they facilitate the diagnosis of cardiac conditions, thereby assisting the functioning of the heart. The appellate court, however, rejected this argument. After an exhaustive review and construction of the statute and accompanying regulation, the court reasoned that the monitors primarily serve an informational role, rather than assisting the functioning of the heart. In contrast, devices like pacemakers intrinsically assist the organ function.

Thus, the court concluded that the taxpayer's devices do not meet the statutory criteria for exemption. The court closed, "[Taxpayer] is in the unenviable position of having a product whose function touches several of the concerns [of the law and regulation]. Unfortunately, those touches are too tenuous to establish the firm basis needed for an exemption." For more information on [Medtronic USA Inc. v. Dep't of Tax & Fee Admin](#), contact [Jim Kuhl](#).

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