

CHAPTER 52. PHYSICIANS AND DENTISTS

- Sec.
52.1. Purchases of medicines, medical supplies, medical equipment and prosthetic or therapeutic devices.
52.2. Fabrication of dental prosthetics.
52.3. [Reserved].
52.4. Sellers and repairers of eyeglasses.

Source

The provisions of this Chapter 52 adopted September 8, 1972, effective September 9, 1972, 2 Pa.B. 1686, unless otherwise noted.

§ 52.1. Purchases of medicines, medical supplies, medical equipment and prosthetic or therapeutic devices.

(a) *General.* This section is intended to clarify the extent to which the sale or use of drugs, medicines, medical supplies, medical equipment and prosthetic or therapeutic devices is subject to tax. The determination that purchases qualify for exemption as medicines, medical supplies and the like, is based essentially upon the use for which the purchases are intended rather than upon the occupation of the purchaser.

(b) *Exempt purchases.* The following constitute exempt purchases:

(1) *Medicines and drugs.* The sale at retail or use of prescription or non-prescription medicines and drugs.

(2) *Medical supplies.* The sale at retail or use of tangible personal property for use in alleviation or treatment of injury, illness, disease or incapacity, and which is consumed during the use.

(3) *Dentists' materials.* The purchase or use by a dentist of materials used in dental treatment and property (such as dentures, fillings, crowns, inlays, bridges, lingual or palatal bars) transferred by the dentist to the patient.

(4) *Therapeutic or prosthetic devices.* Therapeutic or prosthetic devices designed for the use of a particular individual to correct or alleviate a physical incapacity.

(5) *Wrapping supplies.* The sale at retail or use of wrapping supplies and nonreturnable containers, such as medicine bottles, ointment tins, prescription bottles and pill bottles, envelopes, or boxes when the sale or use is incidental to delivery of personal property. Reference should be made to § 32.6 (relating to wrapping supplies, equipment and services).

(c) *Taxable purchases.* The sale at retail or use of medical equipment remains subject to tax, unless the equipment qualifies as an exempt therapeutic or prosthetic device under subsection (b).

(d) *Retailers' Information Booklet.* To facilitate the administration of this chapter, the Department will publish a list of taxable and exempt property in the *Pennsylvania Bulletin* under § 58.1 (relating to publication of list of taxable and

exempt tangible personal property). In addition, the Department may prepare for use by taxpayers a Retailers' Information Booklet which summarizes this chapter, provides supplemental procedural instructions for the submission of reports and tax remittances and contains a list of taxable and nontaxable items. A copy of this publication may be obtained from the Department upon request.

Authority

The provisions of this § 52.1 amended under section 270 of the Tax Reform Code of 1971 (72 P. S. § 7270).

Source

The provisions of this § 52.1 amended through March 9, 1984, effective March 10, 1984, 14 Pa.B. 845; amended July 20, 1990, effective July 21, 1990, 20 Pa.B. 3977. Immediately preceding text appears at serial pages (139179) to (139180) and (89221) to (89228).

§ 52.2. Fabrication of dental prosthetics.

The fabrication of dentures, dental-mechanical appliances and restorations to be sold to dentists is a manufacturing operation and the provisions of § 32.32 (relating to manufacturing; processing), are applicable to dental laboratories engaged in such activity.

§ 52.3. [Reserved].

§ 52.4. Sellers and repairers of eyeglasses.

(a) *General.* The promulgation of this revised ruling reflects a change in the policy of the Department. Formerly, the production of optical lenses was not considered to be manufacturing. It has been determined, however, that, for sales and use tax purposes, the production of optical lenses is manufacturing. The effective date of this ruling is the date of its adoption. Its effect is, therefore, prospective only.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Eyeglasses—The term includes optical lenses, eyeglass frames, eyeglass temples and other components necessary to make optical lenses suitable for human wear.

Optical Lenses—The term includes prescriptive and nonprescriptive lenses, contact lenses, tinted lenses for sunglasses, lenses for items as ski goggles and diving masks, and other similar optical lenses, whether the lenses are glass, plastic or other material.

(c) *Manufacture of optical lenses.* The cutting, molding, shaping, grinding and polishing of optical lenses is manufacturing as that term is defined in section 201(c) of the TRC (72 P. S. § 7201) and § 32.32 (relating to manufacturing; processing). Therefore, a manufacturer of optical lenses is entitled to claim the

manufacturing exemption upon the purchase or use of tangible personal property which is directly used in the manufacture of optical lenses.

(d) *Assembly of eyeglasses.* Assembly of eyeglasses shall conform with the following:

(1) The assembly of eyeglasses by a person who also manufactures one or more eyeglass components is manufacturing as that term is defined in section 201(c) of the TRC and § 32.32. Therefore, the manufacturing exemption is available upon the purchase or use of tangible personal property which is directly used in the assembly of eyeglasses if the person performing the assembly also manufactures one or more of the components which are incorporated as part of the eyeglasses.

(2) The assembly alone of eyeglasses from previously manufactured components is not manufacturing, even if the person performing the assembly is required to fit lenses into particular frames or make other adjustments in order to fulfill the requirements of a prescription. Therefore, a person who only assembles eyeglasses is not entitled to claim the manufacturing exemption upon the purchase price of tangible personal property which is used in the assembly.

(e) *Sale and repair.* Sale and repair shall conform with the following:

(1) *Sale or repair of prescriptive eyeglasses.* The sale or repair of eyeglasses or eyeglass components prescribed for a particular individual by an ophthalmologist, oculist or optometrist is exempt from tax. This rule is applicable also to the sale or repair of eyeglasses or eyeglass components which replace those originally prescribed. A person who sells or repairs these eyeglasses or eyeglass components should not collect tax upon their sale price or repair charge.

(2) *Sale or repair of nonprescriptive eyeglasses.* The sale or repair of eyeglasses or eyeglass components not prescribed for a particular individual by an ophthalmologist, oculist or optometrist is subject to tax. A person who sells or repairs these eyeglasses or eyeglass components is required to register with the Department and to collect and remit tax. The repair of nonprescriptive eyeglasses or eyeglass components is more specifically governed by § 31.5 (relating to persons rendering taxable services).

(3) *Tax liability of vendors and repairers.* A person who sells or repairs eyeglasses shall pay tax upon his purchase or use of property which he utilizes in his business, except upon property which he purchases to resell or transfers to a customer in the course of a repair. The resale exemption is applicable to the purchase of eyeglasses or eyeglass components which are to be sold or transferred. To obtain the exemption, the vendor or repairer shall present to his supplier a properly completed exemption certificate indicating "resale" as the basis for the exemption.

Source

The provisions of this § 52.4 amended October 28, 1977, effective October 29, 1977, 7 Pa.B. 3206.

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