

## Sales Tax Application to TennCare

## Sales & Use tax notice

Questions have arisen regarding whether health maintenance organizations (HMOs) and behavioral health organizations (BHOs) are liable for sales/use tax on tangible personal property and taxable services that are provided to enrollees of the "TennCare" program.

Under the TennCare program, the State of Tennessee no longer directly pays for health care services delivered to Medicaid eligible individuals.

Tennessee now contracts with private entities known as HMOs or BHOs to provide TennCare enrollees with basic health care services and mental health services. The HMO/BHO may either provide such supplies and services directly, or may enter into agreements with providers whereby the provider furnishes enrollees with supplies and services in exchange for payments by the Sales of medical equipment to HMOs/BHOs or their providers under the TennCare program are not direct sales to the U.S. Government or to the State of Tennessee and therefore are not exempt from Tennessee sales/use taxes. *See* Departmental Rule 1320-5-1.55(3).

However, many items of tangible personal property that may be sold to HMOs/BHOs or their providers under the TennCare program are specifically exempt by statute from Tennessee sales/use taxes. The following exemptions are specifically set forth in the statutes:

(1) Sale of human blood, plasma or any part thereof is exempted from the tax by Tenn. Code Ann. Section 67-6-304 when sold by an organization exempt under 26 U.S.C.A. § 501(c)(3).

(2) The retail sale of insulin and any syringe used to dispense insulin is exempted from the tax by Tenn. Code Ann. Section 67-6-312.

(3) Tenn. Code Ann. Section 67-6-314 exempts the sale of certain medical equipment and devices, such as artificial limbs, wheelchairs, prosthetics, orthotics, special molded orthopedic shoes, walkers, crutches, surgical supports and lift devices, from the tax.

(4) Prescription eyewear, including replacement parts and industrial materials, sold to and used by a person whose business is operating a Tennessee optical laboratory where such eyewear is manufactured or fabricated, if the same person also owns or operates the facilities where the eyewear is dispensed to patients. For the exemption set forth in Tenn. Code Ann. Section 67-6-316(c) to apply, sales and use tax must be paid on the cost price of the eyewear dispensed to patients inside Tennessee.

(5) Sale of ostomy products or appliances for use by persons who have had colostomies, ileostomies or urostomies is exempt from the tax under Tenn. Code Ann. Section 67-6-317.

(6) Tenn. Code Ann. Section 67-6-318 exempts from the tax sales of oxygen and the equipment required to administer it when prescribed or recommended for medical treatment of humans by licensed practitioners of the healing arts.

(7) Drugs or medicines dispensed by a licensed pharmacist for humans pursuant to a prescription written by a Tennessee licensed practitioner of the healing arts or sold to such a Tennessee licensed practitioner for use by humans are exempt under Tenn. Code Ann. Section 67-6-320.

(8) Tenn. Code Ann. Section 67-6-322 exempts from the sales/use tax any sale of tangible personal property or taxable services sold, given or donated to nonprofit homes for the aged, nonprofit blood banks, nonprofit organ banks for transplantable tissue, nonprofit hospitals,

and certain other nonprofit institutions and organizations which have received a determination of exemption from the Internal Revenue Service under 26 U.S.C.A. § 501.

(9) Charges made by dentists to their patients in connection with sale or transfer of tangible personal property used in the practice of the profession of dentistry are exempt from the tax under the Tenn. Code Ann. Section 67-6-335.

If you need to register, the application can be downloaded from our Web site at [www.Tennessee.gov/revenue](http://www.Tennessee.gov/revenue).

Have questions or comments? Please let us know. [Contact us](#).

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