

**SALES AND USE TAX REVIEW COMMISSION  
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER:**

A-997

**DATE OF INTRODUCTION:**

January 8, 2002

**SPONSOR:**

Assemblyman Moran  
Assemblyman Connors

**DATE OF RECOMMENDATION:**

February 26, 2002

**IDENTICAL BILL:**

S-717

**COMMITTEE:**

Assembly Health and Human Services

**DESCRIPTION:**

This Bill would exempt charges for the sale and servicing of medical alarm and emergency notification equipment as well as the telecommunications services provided in conjunction therewith.

**ANALYSIS:**

This Bill as proposed would be extremely difficult to administer because it is impossible to distinguish what purpose phone lines are used for. The telephone companies neither monitor telephone lines of consumers nor do they have the equipment to determine if phone lines are being used for medical purposes.

The Bill should be revised to limit the exemption to sales of medical alarm and emergency notification equipment and not to extend to telecommunication services. The exemption for telecommunication services would present an administrative burden on both the taxing authority and the vendor who is responsible for collecting tax. The Bill provides an exemption when telecommunication services are used for medical purposes. Telephone companies cannot reasonably be expected to recognize whether a particular phone call is being used for medical purposes when they do not even have equipment to make such a determination. Enforcement and administrative problems arise because of the inherent difficulty in determining whether the phone call is being used for medical purposes and thus qualified for the exemption.

Customarily, medical alarm and emergency notification equipment and servicing is sold in combination with other devices and services such as fire and security. It would be difficult to separate out the equipment and services that are qualified for the exemption from the equipment and services that are not. Since some of the equipment and services included in the combination are taxable the entire purchase would be taxable making this exemption useless.

The exemption does not meet the test of simplicity, which requires that sales tax legislation be drafted in such a manner to allow vendors to ascertain their tax collection responsibilities simply by reviewing the provisions of the proposed legislation itself, without resort to interpretative regulations. The proposed Bill as written is unclear on what is exempt (i.e., the service or the equipment) or who is the customer (i.e., the medical place, alarm place or the person who is making the call). The Bill's lack of simplicity could result in a lot of taxpayer confusion and create needless litigation over terms that should be defined in the legislation for clarity. administrative and enforcement problems.

There are many devices that are designed to protect or warn individuals when life or property is threatened. The use of medical alarm and emergency notification devices and services, that are the subject of this Bill, effect the quality of life for the elderly and certainly should be recommended and encouraged. However, a tax exemption from a broad-based tax should not be based solely on the recognized necessity of the item sought to be exempt from taxation. The exemption will not cause potential users of medical alarm and emergency notification equipment and services to buy and utilize these devices and services because a sales tax exemption has been enacted. A better recommendation would be to exempt medical alarm and emergency notification equipment for senior citizens possibly expanding the exemption for medical equipment and supplies.

There are no strong tax policy reasons to support this exemption. Enactment of special exemptions for purchases of socially desirable merchandise tend to create an increased demand for similar exemptions for other good, useful, necessary, or politically favored purchases. Such piecemeal exemptions alter the broad-based nature of the sales and use tax and reduce its credibility as a fairly administered and simple to understand tax. A broad-based tax, imposed with limited exemptions on a wide range of transactions, is easy to understand and administer, and is generally perceived as economically neutral and "fair". When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. An exemption for medical alarm and medical emergency notification services and equipment would save an individual taxpayer a fairly insignificant sum. However, the cumulative loss of revenue to the State could be substantial, leaving the State to find other means of generating the funds lost as a result of another exemption.

**RECOMMENDATION:**

The Commission does not recommend enactment of this Bill.

**COMMISSION MEMBERS FOR PROPOSAL: 0**

**COMMISSION MEMBERS AGAINST PROPOSAL: 8**

**COMMISSION MEMBERS ABSTAINING: 0**