

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

BILL NUMBER: S-1376

DATE OF INTRODUCTION:

March 29, 2004

SPONSOR: Senator Cardinale

DATE OF RECOMMENDATION:

June 10, 2004

IDENTICAL BILL:

COMMITTEE: Senate Health, Human Services and Senior Citizens

DESCRIPTION:

Clarifies that diabetic supplies; medical oxygen, respiratory equipment; wheelchairs, TENS and other durable medical equipment; and crutches and other artificial devices and appliances, are exempt only when sold for *human* use. Expands the medical exemption to provide an exemption for sales of medical equipment and supplies and all other health care equipment and supplies not already specifically exempt under N.J.S.A. 54:32B-8.1, when they are purchased for use in providing medical and health care services to humans, but not transferred to the purchaser. In addition, it specifies that only *human* blood sold for human use is exempt.

ANALYSIS:

The proposed exemption would give professional medical services an enormous tax advantage that other providers of nontaxable professional services do not have. Providers of nontaxable professional services have always been treated as the retail purchasers of the goods and services that they use in order to render their services and, unless these particular items are subject to some blanket exemption (e.g., food, drugs, transportation services), the professionals are liable for sales and use tax.

The bill would give physicians, dentists, profit-making hospitals, and other medical services providers an exemption even broader than the one available to the patients themselves, since it would allow them an exemption for “all other health care equipment and supplies, not otherwise exempt under this section” (emphasis added). Thus, for example, while a *patient* would have to pay tax on purchases of bandages, toothpaste, plastic cups, cotton balls, bed pans, blood pressure monitors and fever thermometers, a doctor’s office, nursing home, dentist's office, or hospital would not.

The Commission has some questions regarding the interpretation of the amendment specifying that only *human* blood sold for human use is exempt. It appears to be clear that the exemption will not apply if techniques are developed that would allow humans to benefit from transfusions of non-human blood with properties similar to human blood. It is not clear whether it would apply to synthetic human blood.

There appears to be no genuine financial need or policy reason for medical services providers to have the broad exemption that this bill would provide. In the absence of any provision mandating that the cost savings be passed on to the patients, the amendments would not necessarily result in reduction of the costs of medical care.

Enactment of this new exemption provision would further alter the broad-based nature of the sales and use 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. The loss of revenue to the State could be substantial, leaving the State to find other means of generating the moneys lost as a result of an expanded exemption that has little to recommend it as a matter of tax policy.

RECOMMENDATION: Oppose

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING: 0

COMMISSION MEETING DATE: 6/10/04

CMT:sp