

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-81(40)S
Sales Tax
October 28, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810622C

On June 22, 1981, a Petition for Advisory Opinion was received from Craftmatic Comfort Manufacturing Corp., 1077 Rydal Road, Rydal, Pennsylvania 19046.

The issue raised is whether sales of adjustable beds by Petitioner between March 1, 1978 and February 28, 1981 to customers having prescriptions from their doctors for such beds were exempt from the New York State sales tax under section 1115(a)(3) of the Tax Law.

Petitioner manufactures adjustable beds. The beds have a remote control unit which raises or lowers the head or foot of the mattress, and the mattress conforms to virtually any position desired.

There are two distinct markets for these beds. In one instance it is sold to the general public as a comfort bed. In the second instance the beds are sold, pursuant to a doctor's prescription to patients suffering from various ailments. In these latter cases, the beds can be specially equipped to meet the patients' needs. Side rails, trapeze bars, overhead frames, sockets for intravenous rods, and similar apparatus may be attached to accommodate the customers' needs. Further, the beds can be built to any height that a customer or his doctor requests.

Section 1115(a)(3) of the Tax Law exempts the following from the New York State sales tax:

"Drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment or prevention of illnesses or diseases in human beings, medical equipment (including component parts thereof) and supplies required for such use or to correct or alleviate physical incapacity, . . ."

The Sales and Use Tax Regulations provide, in part, as follows:

"(e) Medical equipment. (1) Medical equipment means machinery, apparatus and other devices (other than prosthetic aids, hearing aids, eye glasses and artificial devices which qualify for exemption under section 1115(e)(4) of the Tax Law), which are intended for use in the cure, mitigation, treatment or prevention of illnesses or diseases or the correction or alleviation of physical incapacity in human beings.

"(2) To qualify such equipment must be primarily and customarily used for medical purposes and not be generally useful in the absence of illness, injury or physical incapacity.

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"Example 1: Items such as hospital beds, wheel chairs, hemodialysis equipment, iron lungs, respirators, oxygen tents, crutches, back and neck braces, trusses, trapeze bars, walkers, inhalators, nebulizers and traction equipment are exempt medical equipment." 20 NYCRR 528.4(e).

During the period in question, Petitioner sold some adjustable beds without side rails, trapeze bars, or any of the other attachments frequently found on hospital beds. Adjustable beds of this type were designed to be more comfortable than nonadjustable beds, but were not designed specifically for medical purposes. This type of bed is not medical equipment within the meaning of section 1115(a)(3) of the Tax Law. 20 NYCRR 528.4(e)(2). The sales of this type of adjustable bed during the period in question were subject to the State and local sales tax, whether or not customers purchased the beds pursuant to doctors' prescriptions.

Other adjustable beds were sold by Petitioner, pursuant to doctors' prescriptions, with attachable side rails, trapeze bars or other parts needed by customers who were suffering from various ailments. These beds were the same as other beds, absent the specialized attachments. With the specialized equipment detached, the bed would generally be useful in the absence of illness, injury or physical incapacity. Petitioner's sales of these beds during the period in question were subject to State and local sales tax, even though made pursuant to a doctor's prescription.

However, specialized attachments, such as side rails, trapeze bars and intravenous rods and sockets, were intended for use in the cure, mitigation or treatment of illness and were not generally useful in the absence of illness, injury or physical incapacity. Therefore, Petitioner's sales of such items during the period in question were exempt from State and local sales tax. 20 NYCRR 528.4(e).

DATED: October 7, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau