**Opinion Letter**

|  |  |
| --- | --- |
| **Letter Number:** | **O-2004-004** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Sales of an "external defibrillator" sold pursuant to a written order issued by a physician.** |
| **Keywords:** |  |
| **Approval Date:** | **04/30/2004** |

**Body:**

Office of Policy & Research  
  
  
April 30, 2004

XXXXXXXXXXX  
XXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXX  
  
  
Dear Sirs:  
  
The purpose of this letter is to respond to your request dated February 16, 2004. In it you ask if a “XXXXXXXXXXXXXXX” which is commonly known as an “external defibrillator” that is sold pursuant to written order issued by a physician would qualify for exemption from Kansas retailers’ sales tax.  
  
The answer to you question is no. An external defibrillator does not meet the definitional or use requirements of the exempting statute K.S.A. 79-3606(r).  
  
Kansas law exempts:

[A]ll sales of prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection: (1) ‘‘Mobility enhancing equipment’’ means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) ‘‘prosthetic device’’ means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;” K.S.A. 79-3606(r).

Sincerely,  
  
  
Mark D. Ciardullo  
Tax Specialist  
  
  
MDC  
  
  
**Date Composed: 05/06/2004 Date Modified: 05/06/2004**