



Taxation Circular
TC 2015/2

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Internal Revenue Commission - Tax Circular

Taxation Circular TC 2015/2: What is a “...supply of medical supplies ...” for the purpose of section 21(1)(a) of the Goods and Services Tax Act?

SUBJECT

This Circular provides the IRC view as to what items will be zero rated in accordance with s21(1)(a) of the Goods and Services Tax (“GST”) Act.

LEGISLATION

1. Section 21(1)(a) states the following:

- (1) Where, but for this section, a supply of goods would be charged with tax under Section 6 or 8, any such supply shall be charged at the rate of zero percent where –*
- (a) the supply is the supply of medical supplies imported or supplied by or on behalf of a hospital, doctor, dentist, optician, pharmacist, nurse, aid post orderly or a supplier of medical supplies and includes, without limiting the generality of the preceding, the supply of prescription lenses with or without frames;*

2. It is the view of the IRC from the current wording of this section that not all supplies imported or supplied by the group of entities and individuals specified will be zero rated. Rather, only that category of supply referred to as “*medical supplies*”.
3. “*Medical supplies*” is not a defined term within the GST Act and therefore takes on its ordinary meaning. There is no evidence to suggest that Parliament intended for anything other than the ordinary, everyday meaning of the word to apply. Reference to the dictionary meaning of the phrase in Segen's Medical Dictionary defines “*medical supplies*” to be;

Any item that is essential for treating illness or injury. In the working parlance, medical supplies are usually understood to mean articles which are low-cost, disposable, and used in high enough volume that the purchasing department has standing orders in place to ensure that the items of interest (e.g., gloves, gauze, needles and syringes) are never out of stock.

4. Further definition is found at USLEGAL.COM which states:

Medical supplies refers to the non-durable disposable health care materials ordered or prescribed by a physician, which is primarily and customarily used to serve a medical purpose and includes ostomy supplies, catheters, oxygen, and diabetic supplies. They cannot be used by an individual in the absence of illness or injury or repeatedly by different individuals.

5. It is the IRC view that only non-durable disposable health care materials which are primarily and customarily used to serve a medical purpose and not intended to be used by an individual in the absence of illness or injury or repeatedly by different individuals are zero rated.
6. This view will be inclusive of:
 - Drugs and other substances (e.g. medical gases) that treat, mitigate or prevent a disease or disorder or that alleviate pain; and
 - Items designed to be implanted in an individual's body, or designed to be attached to an individual's body for the purpose of maintaining bodily functions, (e.g. pacemakers, prostheses, stents, bone screws and plates, gastric feeding tubes and glass eyes).
7. This definition excludes medical equipment which is used for the specific purposes of diagnosis and treatment of disease or rehabilitation following disease or injury but which is of a durable non disposable nature and can be used repeatedly by different patients.
8. Items such as hospital beds, wheelchairs, haemodialysis equipment, iron lungs, respirators, intermittent positive pressure breathing machines, medical regulators, oxygen tests, crutches, canes, trapeze bars, walkers, inhalators, nebulizers, commodes, suction machines and traction equipment presumptively constitute medical equipment and are thereby not of the category of items which qualify to be zero rated. Further examples of items not to be considered medical supplies, and therefore ineligible for zero rating are:
 - Diagnostic equipment such as medical imaging machines, ultrasound and MRI machines, PET and CT scanners, and x-ray machines;
 - Treatment equipment such as infusion pumps, medical lasers and LASIK surgical machines;
 - Life support equipment used to *maintain* a patient's bodily function. This includes medical ventilators, anesthetic machines, heart-lung machines, ECMO, and dialysis machines;

- Medical monitors which allow medical staff to measure a patient's medical state, e.g. ECG, EEG, and blood pressure monitors;
- Medical laboratory equipment which automates or helps analyze blood, urine, genes, and dissolved gases in the blood.

Application

This Tax Circular sets out the Commissioner General's view in relation to the category of items that will qualify to be zero rated under section 21(1)(a) of the GST Act. Its principles are to be considered and followed by all staff in relation to the administration of the law as it relates to the rate of tax to be imposed on the importation or supply by a hospital, doctor, dentist, optician, pharmacist, nurse, aid post orderly or a supplier of medical supplies.

Authorized by



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Subject References

Medical supplies
Zero rated goods

Legislative References

Goods and Services Tax Act 2003

- Section 21(1)(a)