

Amendments to Regulation Section 528.5

(Prosthetic Aids, Hearing Aids, Eyeglasses or Artificial Devices)

In keeping with the intent of Chapter 201 of the Laws of 1976, the following is the Department's policy on the sales and use tax status of prosthetic aids, hearing aids, eye glasses and artificial devices.

Recent amendments to regulation section 528.5, covering sections 1115(a)(4) and 1115(g) of Article 28 of the Tax Law, clarify the criteria which tangible personal property must meet in order to qualify as exempt prosthetic aids or exempt artificial devices (or parts or replacement parts thereof) used to correct or alleviate physical incapacity in human beings.

It is no longer required that an aid or device be attached to, inserted in or worn on the body to qualify for exemption. However, in order to be exempt, such aid or device must either completely or partially replace a missing body part or the function of a permanently inoperative or permanently malfunctioning body part and must be used primarily and customarily for such purposes and not be generally useful in the absence of illness, injury or physical incapacity.

The following are examples of EXEMPT aids, devices and parts; also EXEMPT services to such aids, devices or parts. This list is not all inclusive; please see Publication 822 for additional items.

1. Artificial hands, arms, legs, false teeth.
2. Breast forms for post-mastectomy patients.
3. Garments with built-in breast forms for use by post-mastectomy patients.
4. Cardiac pacemakers.
5. Crowns permanently attached by dentist.
6. Sound amplification devices for hearing impaired persons (for use with telephone and television sets).
7. Hearing aids.
8. Equipment used by a hearing impaired person to communicate by telephone.
9. Special controls installed on motor vehicles which enable paralytics or amputees to operate these vehicles.
10. Hydraulic lifts used in the home by handicapped persons.
11. Hydraulic lifts used by handicapped persons for entry into a motor vehicle.
12. Guide dogs for the blind.
13. Braille typewriters.
14. Optical tactile converters and similar devices which enable a blind person to read print through impulses felt by touch of the hand.
15. Closed captioned TV program receivers.
16. Parts, special attachments and special lettering added to appliances for use by the handicapped.
17. Replacement parts for exempt prosthetic aids or exempt devices which are identifiable as such at the time of purchase (e.g., batteries made only for hearing aids and so marked by the manufacturer).

18. Receipts from installing, maintaining, servicing, and repairing exempt prosthetic aids, hearing aids, exempt eyeglasses and exempt artificial devices. (When an aid, device, or appliance is not of itself exempt, receipts from the maintenance, service, and repair of any parts or replacement parts which qualify for exemption will only be eligible for such exemption when the bill shows the charges separately stated.)

Below are examples of TAXABLE aids, devices, parts, and replacement parts. This is not an all inclusive listing.

1. Clothing (unless specifically exempt).
2. Alarms, flashing lights, and other warning devices.
3. Non-prescription eyeglasses, non-prescription sunglasses, and non-corrective contact lenses.
4. Television sets and other appliances, including appliances with built-in aids which are eligible for exemption. (Any charges separately stated for the exempt aid may be deducted before tax is computed.)
5. Replacement parts which are not identifiable at the time of purchase. (If the purchaser provides proof that the part was used in, on or with an exempt device or aid, he may obtain a refund of the tax paid directly from the Department of Taxation and Finance by filing form AU-11. )
6. Braille games and books. (The portion of the price which is attributable to the features which enable handicapped persons to use the games or books may be deducted before tax is computed, if that portion is separately stated on the bill.)
7. Supplies used in conjunction with prosthetic aids, hearing aids, eyeglasses and artificial devices are not exempt from sales tax, Examples are lens tissue for cleaning glasses, paper used in conjunction with communication devices and dog food for guide dogs.