

SECTION 11 – DRUGS AND MEDICAL SUPPLIES**11-1 DRUGS AND NUTRITIONAL SUPPLEMENTS****A. Exemption**

1. The following drugs, including their packaging materials and any instructions or information about the drugs included in the package with the drugs, are exempt from tax.
 - a. drugs required by federal law to be dispensed only on prescription;
 - b. over-the-counter drugs sold on prescription; and
 - c. insulin.
2. The sale of nutritional supplements by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment as authorized by G.S. 90-151.1 is exempt from sales or use tax pursuant to the provisions of G.S. 105-164.13(13c). A chiropractic physician who sells nutritional supplements to a patient must keep a record of the sale that complies with G.S. 105-164.24, except that the record may not disclose the name of the patient.

B. Definitions

1. **"Drug"** is defined in G.S. 105-164.3(8a) as "A compound, substance, or preparation or a component of one of these that meets any of the following descriptions and is not food, a dietary supplement, or an alcoholic beverage:
 - a. Is recognized in the United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States, or National Formulary.
 - b. Is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.
 - c. Is intended to affect the structure or function of the body."
2. **"Over-the-counter drug"** is defined in G.S. 105-164.3(25a) as "A drug that can be dispensed under federal law without a prescription and is required by 21 C.F.R. §210.66 to have a label containing a 'Drug Facts' panel and a statement of its active ingredients."
3. **"Prescription"** is defined in G.S. 105-164.3(29) as "An order, formula, or recipe issued orally, in writing, electronically, or by another means of transmission by a physician, dentist, veterinarian, or another person licensed to prescribe drugs."

C. Records

Vendors making sales of medicines or drugs pursuant to physicians' or dentists' prescriptions or in refilling the same must keep sales records which will clearly segregate such prescription sales. All original prescriptions must be filed and kept available for inspection by the Secretary of Revenue or his authorized agent. When a sale is made to refill a prescription, the seller's records must indicate the original prescription number.

D. Examples

1. The following items are examples of "drugs" and are exempt from sales and use tax as set out in Technical Bulletin 11-1 A.1.:
 - a. birth control – pills, implants, IUDs;

- b. cotton swabs – medicated – RX – legend drug;
 - c. dermal fillers – injectables – prescription-only injectable substance comprised of collagen or hyaluronic acid;
 - d. dialysis dialysate solution;
 - e. dressings – medicated RX;
 - f. drugs – contrast media (Visipaque, radiopaques);
 - g. drugs – prescription (legend, including biologicals);
 - h. drugs – implanted seeds;
 - i. drugs – solutions – ad mixture – sterile water – sterile normal saline (.9%);
 - j. drugs – solutions – irrigation;
 - k. drugs – solutions – IV;
 - l. gases – medical grade nitrous oxide;
 - m. gases – medical grade – air, carbon dioxide, helium, nitrogen, oxygen;
 - n. injectable collagen;
 - o. insulin;
 - p. parenteral nutrition – nutritional formulas – all on prescription; and
 - q. vaccines.
2. The following items are examples of “over-the-counter drugs” and are exempt from sales and use tax when sold on prescription:
- a. contact lens solutions;
 - a. contraceptives – creams, foams, jellies, medicated condoms;
 - b. cotton swabs – medicated – OTC – non legend drug;
 - c. dressing – medicated – OTC;
 - d. drugs – over-the-counter (Benadryl, Aspirin, Betadine);
 - e. enteral nutrition;
 - f. hydrogen peroxide;
 - g. Povidone Iodine (PVP); and
 - h. rubbing alcohol.

History Note: Authority G.S. 90-151.1; 105-164.3; 105-164.13; 105-164.24; 105-264; 130A-410;
 Issued: June 1, 1996;
 Revised: April 1, 2008; January 1, 2007; February 1, 2004;
 October 1, 1999; October 15, 1998; March 1, 1997.

11-2 OVER-THE-COUNTER DRUGS

Sales of over-the-counter drugs to users or consumers are subject to the general rate of State tax and any applicable local sales or use tax except when the sales are made pursuant to a prescription of a physician, dentist or veterinarian.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-264;
 Issued: June 1, 1996;
 Revised: January 1, 2007; February 1, 2004; June 1, 2002;
 October 1, 1999; October 15, 1998.

11-3 DRUGS SOLD TO AND BY PHYSICIANS, DENTISTS, AND HOSPITALS

A. Purchases of Medicines by Physicians, Dentists and Hospitals

G.S. 105-164.13(13) exempts prescription drugs, including ingredients used to produce drugs, packaging materials and instructions or information about the product packaged with the drug.

All prescription drugs are exempt regardless of their use, including those used by physicians in administering treatment to patients and prescription drug samples.

B. Medicines and Drugs Purchased Under a Certificate of Exemption

Physicians, dentists, and hospitals making sales of medicines and drugs not specifically exempt from tax may purchase the medicines and drugs which they will resell or use in administering treatment to their patients without payment of tax to their vendors if the physician, dentist, or hospital making the purchase has registered with the Department of Revenue for sales and use tax purposes and furnishes their vendors a properly executed **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**. All prescription drugs are exempt from tax regardless of their use. Over-the-counter drugs sold on a written prescription and insulin are exempt.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13;
105-164.28; 105-264;
Issued: June 1, 1996;
Revised: January 1, 2007; July 1, 2005; February 1, 2004;
June 1, 2002; October 1, 1999; October 15, 1998; March 1, 1997.

11-4 SUPPLIES SOLD TO PHYSICIANS, DENTISTS, AND HOSPITALS

- A.** Sales to physicians, dentists, hospitals, or similar users or consumers of medical supplies, and medical instruments, medical equipment, and laboratory equipment used to diagnose, prevent, treat or cure disease are subject to any applicable State and local sales or use tax.
- B.** Sales to physicians, dentists, hospitals, or similar users or consumers of prosthetic devices are exempt from tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-264;
Issued: June 1, 1996;
Revised: January 1, 2007; February 1, 2004; October 1, 1999;
October 15, 1998.

11-5 BLOOD PRODUCTS AND HUMAN TISSUE

Transactions involving the procurement, processing, distribution or use of whole blood, plasma, blood products, blood derivatives and other human tissues, such as corneas, bones or organs, for the purpose of injecting, transfusing or transplanting any of them into the human body are deemed to be the rendition of a service and any charges therefor are exempt from sales or use tax pursuant to the provisions of G.S. 130A-410.

History Note: Authority G.S. 105-164.3; 105-264; 130A-410;
Issued: June 1, 1996;
Revised: October 15, 1998.

11-6 DRUGS AND MEDICAL SUPPLIES – BUNDLED TRANSACTIONS

If certain taxable and exempt medical products are sold together for one non-itemized price, the transaction may be considered a “**bundled transaction**” and subject to specific taxability rules. For additional information on bundled transactions, refer to Sales and Use Tax Technical Bulletin 34-25.

History Note: Authority G.S. 105-164.3; 105-164.4D; 105-264;
Issued: April 1, 2008.