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## Letter Ruling 98-8: Sales Taxability of Orthopedic Braces for Shoes

April 3, 1998

You requested a letter ruling on the application of the Massachusetts sales tax , G.L. c. 64H, to the sales of a product sold under the name of \*\*\*\*\*. The company sells an orthopedic brace which is inserted in a person's shoes to correct structural problems with the back, feet and/or legs. Typically, the purchaser is individually fitted for the brace by a sales representative or the company sends the purchaser a kit with instructions to take an impression of each foot which is returned to the company. Based on the foot impressions, the company determines the correct size of each foot brace to be worn. The device is individually tailored to the shape of a healthy foot, forcing the abnormal foot to change to the proper position, correcting bone alignment and foot structural position. The device is contoured on the sides and bottom in a manner based on the industry standard of most footwear, enabling the device to be worn inside most types of shoes.

Massachusetts imposes a sales tax on all retail sales of tangible personal property, unless otherwise exempt. G.L. c. 64H, §§ 1, 2. The rate, if the tax is imposed, is 5% of the sales price of the property sold.

Massachusetts exempts from the sales tax certain types of health care products. Section 6(l) of chapter 64H exempts “. . . sales of artificial devices individually designed, constructed or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual. . . .” A crippled person is defined in the American Heritage Dictionary, Second College Edition (1985), as “one who is partly disabled or lame”.

Based upon the facts as you state them, the purpose of the product is consistent with an artificial device individually designed as a brace, correction or substitute for the bodily structure of a crippled person. Therefore, we determine that the sale of the product qualifies for exemption under the above quoted language in G.L. c. 64H, § 6(l).

Very truly yours,

/s/Mitchell Adams

Mitchell Adams  
Commissioner of Revenue

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