QUESTION 1. WHETHER THE TRANSFER OF POSSESSION OF “CONSIGNMENT” SURGICAL INSTRUMENTS, SUBJECT TO CONSIDERATION IN THE FORM OF CONSIGNMENT FEES AS SET FORTH IN THE MANUAL, CONSTITUTES A “RENTAL” OF THE INSTRUMENTS TO TAXPAYER’S DISTRIBUTORS FOR PURPOSES OF CHAPTER 212, F.S.

ANSWER: THE TRANSFER OF POSSESSION OF CONSIGNMENT SURGICAL INSTRUMENTS TO TAXPAYER’S DISTRIBUTORS IN EXCHANGE FOR RENTAL CONSIDERATION IS CONSIDERED TO BE RENTALS OF THE INSTRUMENTS BY TAXPAYER. CONSEQUENTLY, ABSENT A PROPERLY DOCUMENTED RESALE CERTIFICATE OBTAINED FROM THE DISTRIBUTOR, TAXPAYER SHOULD COLLECT AND REMIT TAX ON THE “GROSS PROCEEDS” DERIVED FROM THE RENTALS OF THE CONSIGNMENT SURGICAL INSTRUMENTS.

QUESTION 2. WHETHER THE TRANSFER OF POSSESSION OF “CONSIGNMENT” IMPLANT SAMPLE KITS, SUBJECT TO CONSIDERATION IN THE FORM OF CONSIGNMENT FEES AS SET FORTH IN THE MANUAL, CONSTITUTES A “RENTAL” OF THE SAMPLES TO TAXPAYER’S DISTRIBUTORS FOR PURPOSES OF CHAPTER 212, F.S.

ANSWER: THE TRANSFER OF POSSESSION OF CONSIGNMENT IMPLANT SAMPLE KITS TO TAXPAYER’S DISTRIBUTORS IN EXCHANGE FOR RENTAL CONSIDERATION IS CONSIDERED TO BE RENTALS OF THE KITS BY TAXPAYER. CONSEQUENTLY, ABSENT A PROPERLY DOCUMENTED RESALE CERTIFICATE OBTAINED FROM THE DISTRIBUTOR, TAXPAYER SHOULD COLLECT AND REMIT TAX ON THE “GROSS PROCEEDS” DERIVED FROM THE RENTALS OF THE CONSIGNMENT SURGICAL INSTRUMENTS.

QUESTION 3. WHETHER THE TRANSFER OF POSSESSION OF “LOANER” SURGICAL INSTRUMENTS, SUBJECT TO CONSIDERATION IN THE FORM OF THE “RENTAL CHARGE” AS SET FORTH IN THE MANUAL, CONSTITUTES A “RENTAL” OF THE INSTRUMENTS TO TAXPAYER’S DISTRIBUTORS FOR PURPOSES OF CHAPTER 212, F.S.

ANSWER: THE TRANSFER OF POSSESSION OF LOANER SURGICAL INSTRUMENTS TO TAXPAYER’S DISTRIBUTORS IN EXCHANGE FOR RENTAL CONSIDERATION IS CONSIDERED TO BE RENTALS OF THE INSTRUMENTS BY TAXPAYER. CONSEQUENTLY, ABSENT A PROPERLY DOCUMENTED
RESALE CERTIFICATE OBTAINED FROM THE DISTRIBUTOR, TAXPAYER SHOULD COLLECT AND REMIT TAX ON THE “GROSS PROCEEDS” DERIVED FROM THE RENTALS OF THE CONSIGNMENT SURGICAL INSTRUMENTS.

QUESTION 4. BASED ON THE ANSWERS TO THE FIRST THREE QUESTIONS ABOVE, WHETHER TAXPAYER’S REMOVAL OF “CONSIGNMENT” SURGICAL INSTRUMENTS, “LOANER” SURGICAL INSTRUMENTS, AND SAMPLE IMPLANTS FROM TAXPAYER’S INVENTORY HELD FOR RESALE, AND ACCOMPANYING HANDLING OF THESE ITEMS TO PREPARE THEM FOR SHIPMENT TO DISTRIBUTORS OR CUSTOMERS, CONSTITUTES A TAXABLE “USE” OF THESE ITEMS BY TAXPAYER, FOR WHICH TAXPAYER MUST ACCRUE AND REMIT USE TAX TO FLORIDA.

ANSWER: TAXPAYER’S REMOVAL OF CONSIGNMENT SURGICAL INSTRUMENTS, LOANER SURGICAL INSTRUMENTS, AND SAMPLE IMPLANTS FROM TAXPAYER’S INVENTORY HELD FOR RESALE, AND ACCOMPANYING HANDLING OF THESE ITEMS TO PREPARE THEM FOR SHIPMENT TO DISTRIBUTORS OR CUSTOMERS FOR RENTAL TRANSACTIONS, DOES NOT CONSTITUTE A TAXABLE “USE” OF THESE ITEMS BY TAXPAYER, FOR WHICH TAXPAYER MUST ACCRUE AND REMIT USE TAX TO FLORIDA BECAUSE THE TRANSACTION IS A RENTAL TRANSACTION WHEREIN TAXPAYER IS COLLECTING AND REMITTING TAX ON THE RENTAL CONSIDERATION RECEIVED.

QUESTION 5. WHETHER TAXPAYER SHOULD COLLECT AND REMIT CHAPTER 212 TAX ON CONSIGNMENT FEES RECEIVED FROM DISTRIBUTORS AS CONSIDERATION FOR THE RENTAL OF “CONSIGNMENT” SURGICAL INSTRUMENTS AND SAMPLE IMPLANT KITS, ONLY AS TO INSTRUMENTS AND SAMPLE KITS THAT ARE LOCATED IN FLORIDA DURING THEIR RENTAL PERIODS, OR WHETHER TAXPAYER SHOULD COLLECT AND REMIT CHAPTER 212 TAX ON SUCH INSTRUMENTS AND SAMPLE KITS LOCATED ANY PLACE IN THE UNITED STATES DURING THEIR RENTAL PERIODS.

ANSWER: ABSENT A PROPERLY DOCUMENTED RESALE CERTIFICATE OBTAINED FROM THE DISTRIBUTOR, TAXPAYER SHOULD COLLECT AND REMIT FLORIDA SALES TAX ON CONSIGNMENT FEES RECEIVED FROM DISTRIBUTORS AS CONSIDERATION FOR THE RENTALS OF “CONSIGNMENT” SURGICAL INSTRUMENTS AND SAMPLE IMPLANT KITS, ONLY FOR INSTRUMENTS AND SAMPLE KITS THAT ARE LOCATED IN FLORIDA DURING THEIR RENTAL PERIODS.

QUESTION 6. WHETHER TAXPAYER SHOULD COLLECT AND REMIT CHAPTER 212 TAX ON RENTAL CHARGES RECEIVED FROM DISTRIBUTORS AS CONSIDERATION FOR THE RENTAL OF “LOANER” SURGICAL INSTRUMENTS, ONLY AS TO INSTRUMENTS THAT ARE LOCATED IN FLORIDA DURING THEIR RENTAL
PERIODS, OR WHETHER TAXPAYER SHOULD COLLECT AND REMIT CHAPTER 212 TAX ON SUCH INSTRUMENTS LOCATED ANY PLACE IN THE UNITED STATES DURING THEIR RENTAL PERIODS.

**Answer:** ABSENT A PROPERLY DOCUMENTED RESALE CERTIFICATE OBTAINED FROM THE DISTRIBUTOR, TAXPAYER SHOULD COLLECT AND REMIT CHAPTER 212, F.S., TAX ON RENTAL CHARGES RECEIVED FROM DISTRIBUTORS AS CONSIDERATION FOR THE RENTALS OF “LOANER” SURGICAL INSTRUMENTS, ONLY AS TO INSTRUMENTS THAT ARE LOCATED IN FLORIDA DURING THEIR RENTAL PERIODS.

January 16, 2015

Re: Technical Assistance Advisement – TAA 15A-001
Florida Sales and Use Tax
Medical – Rental of surgical instruments and sample kits
Sections: 212.02, 212.05, and 212.21, Florida Statutes (F.S.)
Petitioner: XXXX (“Taxpayer”)

Dear XXXX:

This letter is a response to your petition dated XXXX, for the Department's issuance of a Technical Assistance Advisement ("TAA") concerning the above referenced petitioner and matter. Your petition has been carefully examined and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of section 213.22, F.S.

**General Facts**

Taxpayer is a public company headquartered in XXXX, XXXX. Taxpayer manufactures orthopedic implants that replace human joints. Taxpayer also distributes related products, including specialized surgical instruments used by surgeons during the implantation process.

Taxpayer’s customers include health care providers (primarily hospitals) and they are located throughout the United States and in many foreign countries worldwide. Taxpayer’s products are marketed by a network of independent contractor sales representatives/distributors (“Distributors”). These Distributors operate independently of Taxpayer. Distributors are not employees of Taxpayer. The relationship between Taxpayer and Distributors is outlined in the XXXX (“Contract”) provided as part of this TAA. In paragraph IV., labeled “Independent Contractor”, the Contract provides that Distributors are independent contractors and not employees of XXXX, and are solely liable for proper withholding and payment of federal income tax, state income tax, self-employment tax, social security tax, and/or any other applicable taxes. The Distributors are independent of Taxpayer and are not authorized to
transact business, incur any obligations in the name or for the account of XXXX nor on XXXX’s behalf, nor to make any promise, warranty or representation with respect to XXXX Products, or any other matter. The Distributors are independent of Taxpayer and are not authorized to use the name “XXXX” as part of their business or corporate name without the prior written approval of XXXX.

Implantation of Taxpayer’s joint replacement products requires specialized surgical instruments, unique to Taxpayer’s products. The various joint-replacement implants are manufactured in several sizes and differing designs for differing patient requirements, and each device in each size requires a unique set of surgical instruments for implantation. The instruments are manufactured to Taxpayer’s specifications outside Florida by independent suppliers. The instruments are purchased for resale by Taxpayer, shipped by the manufacturers to Taxpayer in Florida, and placed in inventory by Taxpayer.

Taxpayer’s agreements with Distributors require that Distributors are in compliance with all (Taxpayer) policies and procedures. Taxpayer has proposed certain revisions to its manual to clarify that the business relationship between Taxpayer and its Distributors in the United States, with respect to surgical instruments and “sample kits,” constitutes a rental arrangement by which the instruments and sample kits are rented to the Distributors.

Taxpayer’s mode of doing business is to place orthopedic implants on consignment with its customers, through it Distributors. Such inventory, belonging to Taxpayer, is termed “consignment” inventory in the manual. When a particular implant is sold, the sale is documented and paid for.

Under the terminology used in the manual, surgical instruments in Taxpayer’s owned inventory, but maintained on the premises of its Distributors or customers, are likewise referred to as being on “consignment,” even though the instruments are not generally sold to hospital customers in the United States. Thus, when the manual refers to “consignment instruments,” it means those instruments that have been delivered to hospitals, through Taxpayer’s Distributors, to be used in the implantation process. The instruments are durable and made to be re-sterilized and used for multiple surgeries. When a particular instrument wears out or becomes obsolete, it is returned to Taxpayer through the Distributors and replaced for the customer. These “consignment” instruments are capitalized and depreciated on Taxpayer’s books once they are removed from inventory for this purpose.

No separate charge is made to the hospitals for the instruments, but charges for them are made to Taxpayer’s Distributors for the rental of the instruments.

A far less common occurrence is for a set of surgical instruments to be sent to a hospital customer, also through a Distributor, for short-term use. This typically occurs for a one-time surgical case at a hospital that is not yet a regular customer. These instruments are referred to in the manual as “loaner” instruments. After this short-term use, the instruments typically are returned to Taxpayer, placed back in inventory (if still suitable for surgical use), and again held for resale.
Each Distributor also receives one “sample kit” that includes samples of Taxpayer’s various “core” products, primarily joint-replacement implants. The revised manual has a listing of the items in the sample kit, at pages 14-15. As evident from the list and from Taxpayer’s website (XXXX.com), Taxpayer offers varying designs of hip, knee, and shoulder implants for different patient requirements, and the sample kit contains examples of the various designs.

These samples are not given away to customers, but are retained in the possession of the Distributors who show them to customers and prospective customers. The products in the sample kit are rather expensive, and it is Taxpayer’s practice to capitalize and depreciate the sample kits as is done with the “consignment” surgical instruments. The samples, constructed from metal with specialized plastics at some friction points, are durable and remain with the Distributors. When the design of an individual item changes, a replacement sample is sent to each Distributor to place in the sample kit, and the obsolete samples are returned to the Taxpayer.

Surgical instruments and sample implants that leave Taxpayer’s inventory are immediately shipped by common carrier to Taxpayer’s Distributors (or, for instruments, occasionally directly to a hospital as directed by a Distributor), whether in Florida or elsewhere, and the Distributors then deliver the instruments to the hospital customers and retain possession of the samples for their own use. Taxpayer is able to document such shipments by common carrier.

In Section 15.2.1, the manual distinguishes between implant inventory, held on actual “consignment,” and surgical instruments which are “leased or rented to Distributors in return for the consignment rental fees charged with respect to Core Products. The table on page 33, which details the consignment fee calculation for hip, knee, and shoulder implants, is annotated as follows: “For these core products, consignment fees constitute rental charges for surgical instruments and sample kits.” The “core products” include all the implants for which surgical instruments are necessary. The heading for the right-hand column in the same table is “Monthly Rental Fee.”

Section 3.5 of the manual provides that there is a direct rental charge for such instruments. The manual provides that “Distributors selling core implants are entitled to receive one initial sample kit consigned on a rental basis.” The manual provides that the “consignment fees” paid by the Distributors are consideration for rentals of surgical instruments and sample kits.

**Manual**

Taxpayer provided a copy of the manual. Relevant provisions of the manual are as follows:

Section 3.1.1 provides as follows: “[Taxpayer] will make available loaner sets of implants and instruments for short-term rental. . . .”

Section 3.3 provides as follows: “Shipping Charges: [Taxpayer] shares the shipping cost of loaners with Distributor. The Distributor will pay for UPS/FedEx/DHL shipping/freight charges. . . .”
Section 3.5 provides as follows: “Rental Charge for Loaner Instruments: A rental charge of $10 per instrument tray, plus any applicable taxes, will be commission deducted for each XXXX number issued with respect to Loaner instruments and implants.”

Section 8.2.1 provides as follows: “Upon initiation of a distribution agreement with [Taxpayer], Distributors selling core implants are entitled to receive one initial sample kit consigned on a rental basis as detailed in Section 15 of this Handbook.”

Section 8.2.2 provides in part as follows: “The initial sample kit consists of hip, knee and shoulder samples only. . . .”

Section 8.2.3 provides in part as follows: “The initial sample kit will remain the property of [Taxpayer]. These samples will be part of your consignment and will be returned to [Taxpayer] at the termination of the distribution contract. . . .”

Section 10.1 provides directions on Shipping Fees as follows: “Overview: [Taxpayer] charges shipping fees for all items sent on the Distributor’s behalf, including shipping one way (outbound if shipped FedEx/UPS/DHL) or loaner sets. At the end of each month, these charges are automatically deducted from the Distributor’s commissions . . . .”

Section 15.1 provides as follows: “Scope: This policy covers all products (instruments and implants) to be held in consignment by Distributors, hospitals, and other end users. This policy excludes loaners.”

Section 15.2.1 defines the term “Consignment” as follows: “Consignment: Product owned by [Taxpayer] and stored for resale, and distributed through Distributors, and hospitals. Product is intended for long-term storage at Distributors’ independent locations and hospitals. Surgical instrument sets are also referred to as being held on consignment; however, it is more accurate to say that surgical instruments are leased or rented to Distributors in return for the consignment rental fees charged with respect to Core Products, in accordance with this section of the manual.”

**Requested Advisements**

Question 1. Whether the transfer of possession of “consignment” surgical instruments, subject to consideration in the form of consignment fees as set forth in the manual, constitutes a “rental” of the instruments to Taxpayer’s Distributors for purposes of Chapter 212, F.S.

Question 2. Whether the transfer of possession of “consignment” implant sample kits, subject to consideration in the form of consignment fees as set forth in the manual, constitutes a “rental” of the samples to Taxpayer’s Distributors for purposes of Chapter 212, F.S.

Question 3. Whether the transfer of possession of “loaner” surgical instruments, subject to consideration in the form of the “rental charge” as set forth in the manual, constitutes a “rental” of the instruments to Taxpayer’s Distributors for purposes of Chapter 212, F.S.
Question 4. Based on the answers to the first three questions above, whether Taxpayer’s removal of “consignment” surgical instruments, “loaner” surgical instruments, and sample implants from Taxpayer’s inventory held for resale, and accompanying handling of these items to prepare them for shipment to Distributors or customers, constitutes a taxable “use” of these items by Taxpayer, for which Taxpayer must accrue and remit use tax to Florida.

Question 5. Whether Taxpayer should collect and remit Chapter 212 tax on consignment fees received from Distributors as consideration for the rental of “consignment” surgical instruments and sample implant kits, only as to instruments and sample kits that are located in Florida during their rental periods, or whether Taxpayer should collect and remit Chapter 212 tax on such instruments and sample kits located any place in the United States during their rental periods.

Question 6. Whether Taxpayer should collect and remit Chapter 212 tax on rental charges received from Distributors as consideration for the rental of “loaner” surgical instruments, only as to instruments that are located in Florida during their rental periods, or whether Taxpayer should collect and remit Chapter 212 tax on such instruments located any place in the United States during their rental periods.

**Taxpayer’s Position**

Taxpayer believes that the transfers of possession of consignment surgical instruments, consignment implant sample kits, and loaner surgical instruments for consideration constitute “rentals” for purposes of Florida’s sales tax. Taxpayer does not believe the removal from inventory of consignment surgical instruments, consignment implant sample kits, and loaner surgical instruments constitutes a taxable “use” of these items and therefore does not subject them to Florida’s use tax. Taxpayer believes that it should only collect and remit tax on Florida rentals of consignment surgical instruments, sample implant kits, and loaner surgical instruments.

**Applicable Law and Discussion**

Chapter 212, F.S., imposes sales tax on all sales of tangible personal property, unless specifically exempt. Section 212.21(2), F.S., specifically provides in pertinent part:

> It is hereby declared to be the specific legislative intent to tax each and every sale . . . or rental levied and set forth in this chapter, except as to such sale . . . or rental as shall be specifically exempted therefrom by this chapter subject to the conditions appertaining to such exemption. . .

Section 212.05, F.S., provides in part as follows:

> It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state . . . or who rents or furnishes any of the things or services taxable under this chapter . . .
Section 212.02(10)(g), F.S., provides as follows in part:

“Lease,” “let,” or “rental” also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property . . . .

Section 212.07(1)(b), F.S., provides in part the following:

A resale must be in strict compliance with s. 212.18 and the rules and regulations, and any dealer who makes a sale for resale which is not in strict compliance with s. 212.18 and the rules and regulations shall himself or herself be liable for and pay the tax. Any dealer who makes a sale for resale shall document the exempt nature of the transaction, as established by rules promulgated by the department, by retaining a copy of the purchaser’s resale certificate. . . .

Rule 12A-1.071, F.A.C., provides in pertinent part as follows:

(1)(a) For the purpose of this rule, the term “lease” includes any rental or license to use tangible personal property, unless a different meaning is clearly indicated by the context in which it is used. The term refers to all transactions that are not bailments in which there is a transfer of possession of tangible personal property, without regard to limitations upon the use, for a consideration, without a transfer of title to the property. . . .

(b) Transfer of possession with respect to an operating lease means that one of the following attributes of tangible personal property ownership has been transferred:

1. Custody or possession of the property, actual or constructive;
2. The right to custody or possession of the property; or
3. The right to use and control or direct the use of the property.

(c) For an operating lease, tax applies to the gross proceeds derived from the lease of tangible personal property for the entire term of the lease . . . .

(3) An out-of-state owner or lessor of equipment is doing business in Florida when his tangible personal property is located in Florida in the possession of a lessee . . . .

Rule 12A-1.091(4), F.A.C., provides in part as follows:

(4) . . . The two taxes, sales and use, stand as complements to each other, and taken together provide a uniform tax upon either the sale at retail or the use of all tangible personal property irrespective of where it may have been purchased.

In Florida, the rental of tangible personal property in which there is a transfer of possession of tangible personal property for a consideration is subject to sales tax. Tangible personal property purchased exclusively for rental by a dealer registered with the Department at the time of purchase may be purchased tax-exempt. The purchasing dealer is required to extend a copy of its Annual Resale Certificate to the selling dealer at the time of purchase in lieu of paying tax on
the purchase of the tangible personal property. Please note, however, a dealer who purchases tangible personal property for the dual purpose of renting it to others and also for his own use, or who purchases tangible personal property exclusively for rental but subsequently uses the property, is responsible for paying the tax on the cost price of such tangible personal property and is also responsible for collecting and remitting the tax on all rentals of such property.

**Response**

**Question 1.** Whether the transfer of possession of “consignment” surgical instruments, subject to consideration in the form of consignment fees as set forth in the manual, constitutes a “rental” of the instruments to Taxpayer’s Distributors for purposes of Chapter 212, F.S.

**Answer:** The transfer of possession of consignment surgical instruments to Taxpayer’s Distributors in exchange for rental consideration is considered to be rentals of the instruments by Taxpayer. Consequently, absent a properly documented resale certificate obtained from the Distributor, Taxpayer should collect and remit tax on the “gross proceeds” derived from the rentals of the consignment surgical instruments.

**Question 2.** Whether the transfer of possession of “consignment” implant sample kits, subject to consideration in the form of consignment fees as set forth in the manual, constitutes a “rental” of the samples to Taxpayer’s Distributors for purposes of Chapter 212, F.S.

**Answer:** The transfer of possession of consignment implant sample kits to Taxpayer’s Distributors in exchange for rental consideration is considered to be rentals of the kits by Taxpayer. Consequently, absent a properly documented resale certificate obtained from the Distributor, Taxpayer should collect and remit tax on the “gross proceeds” derived from the rentals of the consignment surgical instruments.

**Question 3.** Whether the transfer of possession of “loaner” surgical instruments, subject to consideration in the form of the “rental charge” as set forth in the manual, constitutes a “rental” of the instruments to Taxpayer’s Distributors for purposes of Chapter 212, F.S.

**Answer:** The transfer of possession of loaner surgical instruments to Taxpayer’s Distributors in exchange for rental consideration is considered to be rentals of the instruments by Taxpayer. Consequently, absent a properly documented resale certificate obtained from the Distributor, Taxpayer should collect and remit tax on the “gross proceeds” derived from the rentals of the consignment surgical instruments.

**Question 4.** Based on the answers to the first three questions above, whether Taxpayer’s removal of “consignment” surgical instruments, “loaner” surgical instruments, and sample implants from Taxpayer’s inventory held for resale, and accompanying handling of these items to prepare them for shipment to Distributors or customers, constitutes a taxable “use” of these items by Taxpayer, for which Taxpayer must accrue and remit use tax to Florida.
Answer: Taxpayer’s removal of consignment surgical instruments, loaner surgical instruments, and sample implants from Taxpayer’s inventory held for resale, and accompanying handling of these items to prepare them for shipment to Distributors or customers for rental transactions, does not constitute a taxable “use” of these items by Taxpayer, for which Taxpayer must accrue and remit use tax to Florida because the transaction is a rental transaction wherein Taxpayer is collecting and remitting tax on the rental consideration received.

Question 5. Whether Taxpayer should collect and remit Chapter 212 tax on consignment fees received from Distributors as consideration for the rental of “consignment” surgical instruments and sample implant kits, only as to instruments and sample kits that are located in Florida during their rental periods, or whether Taxpayer should collect and remit Chapter 212 tax on such instruments and sample kits located any place in the United States during their rental periods.

Answer: Absent a properly documented resale certificate obtained from the Distributor, Taxpayer should collect and remit Florida sales tax on consignment fees received from Distributors as consideration for the rentals of “consignment” surgical instruments and sample implant kits, only for instruments and sample kits that are located in Florida during their rental periods.

Question 6. Whether Taxpayer should collect and remit Chapter 212 tax on rental charges received from Distributors as consideration for the rental of “loaner” surgical instruments, only as to instruments that are located in Florida during their rental periods, or whether Taxpayer should collect and remit Chapter 212 tax on such instruments located any place in the United States during their rental periods.

Answer: Absent a properly documented resale certificate obtained from the Distributor, Taxpayer should collect and remit Chapter 212, F.S., tax on rental charges received from Distributors as consideration for the rentals of “loaner” surgical instruments, only as to instruments that are located in Florida during their rental periods.

Closing Statement

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice, as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request, and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort
to protect confidentiality, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, the backup material, and this response, deleting names, addresses, and any other details which might lead to identification of the taxpayer. Your response should be received by the Department within 10 days of the date of this letter.

If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at 850-717-6363.

Sincerely,

Leigh L. Ceci
Tax Law Specialist
Technical Assistance & Dispute Resolution

Record ID: 144225