

State tax authorities ease up on biotech firms

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California's tax overseers are giving biotechs a hand — as well as some tax-free proteins and enzymes.

The California Board of Equalization is rescinding a narrow interpretation of how “human body parts” are defined for the state's sales and use tax. That four-year-old definition had meant that proteins, enzymes and many tissues and organs that biotech uses were taxable.

That would have squeezed biotech companies, industry trade group BayBio argued, at a time when the weak economy and tepid investor interest in the life sciences are already causing companies to conserve cash, lay off employees and pare their research programs.

But the Board of Equalization now believes its interpretation of the blood and human parts exemption is wrong, said spokeswoman Anita Gore, and it is in the process of being rescinded.

“It really is a positive step forward to embrace the biotech industry in California and its research and development,” said BayBio spokesman Travis Blaschek-Miller.

As recently as December, Blaschek-Miller said, a large Bay Area diagnostics company was fighting a tax bill that included taxes on blood samples. He would not disclose the name of the company and did not know if the issue was resolved.

Sales tax generally applies to all purchases of tangible personal property by the ultimate consumer. But exemptions — like those for most food, prescription medicines, utilities and art — account for billions of dollars in tax breaks.

The heart of the issue for biotechs is the state's interpretation of a sliver of tax code that exempts “banked body parts” from tax. The state agency had said it only applied to blood or tissue banks licensed by the state; exempt human body parts are only those recognizable to the unaided eye, meaning enzymes and proteins would be taxable.

Life sciences companies still face tax issues, Blaschek-Miller said. Proposition 24, an initiative on the November ballot, would eliminate tax breaks passed by the Legislature since late 2008.

“With Prop. 24 looming, we're taking a step back,” Blaschek-Miller said.