

Issue

Manufacturers, Distributors and Retailers use various types of incentives to entice purchasers. These incentives may be in the form of merchandise given away or price reductions and discounts. The sales tax treatment of these items depends upon how the transaction is structured.

Analysis and Determination

Miss. Code Ann. Section 27-65-3 defines the terms sales and gross proceeds of sales. A sale is defined to include every event where the title to property is passed in exchange for money or other consideration. Gross proceeds of sales is defined to mean total value received by the seller from the full sales price and includes amounts received by the seller from third parties under certain circumstances. The term “gross proceeds of sales” is the term used to identify that amount that is subject to sales tax.

Consideration received by the seller from a third party is a taxable portion of gross proceeds of sales when the seller actually receives consideration from a third party that is related to the discount offered, the seller has to pass on the discount to the purchaser and the amount of the third party consideration is known by the seller at the time of the sale. All three of these requirements must be met along with one of the following requirements:

1. The purchaser must present a coupon, certificate or other documentation to claim the discount;
2. The purchaser must identify himself as a member of a group or organization entitled to receive the discount; or
3. The discount must be identified as a third party discount on the invoice received by the purchaser.

Examples

1. In-Store Coupon. ABC Grocery issues a \$1.00 coupon in its weekly advertising paper to be used against the cost of a loaf of bread. The customer gives the clerk the coupon and the \$1.00 is subtracted from the customer’s total. The \$1.00 is not included in the gross proceeds of sales because the seller is not reimbursed for the \$1.00 discount by any third party.
2. Manufacturer’s Coupon. ABC Meat Company issues \$1.00 coupons that may be used against the purchase of any of its meat products at any participating retailer. The customer gives the clerk the coupon and the \$1.00 is subtracted from the customer’s total. The retailer submits the coupon to ABC Meat Company and receives a \$1.00 reimbursement. The \$1.00 discount is included in gross proceeds of sales because the retailer actually receives consideration from a third party.

3. **Group Discounts.** XYZ Discount Television store offers a 20% discount to all members of a local fraternal organization. The member must present an ID card to receive the discount. Joe Member goes to the store, presents his card and purchases a 72 inch plasma television at 20% off the regular retail price. XYZ Television submits the invoice to the fraternal organization and receives a reimbursement for the 20% discount. The discount is included in the gross proceeds of sales. If the fraternal organization did not reimburse the retailer, the discount would be treated as an in-store coupon and not taxable.
4. **Volume Discounts.** XYZ Discount Television store purchases DVD players for \$50 each. If XYZ sells more than 100, the manufacturer will rebate XYZ \$25 per DVD player sold. XYZ advertises the “Sales prices are slashed due to manufacturer’s incentives.” XYZ does not print the amount of the rebate on the invoice, but all purchasers receive the reduced price. The rebate is not included in the gross proceeds of sales.
5. **Seller’s Loyalty Cards.** Save-A-Penny grocery store offers its customers a loyalty or preferred customer discount card at no cost. Any customer who requests a card is eligible to receive a card. The card entitles the customer to receive discounts on specially marked items. The discount is identified on the cash register tape and may be identified either on an item-by-item basis or as a total savings amount at the end of the receipt. These discounts are not included in gross proceeds of sales because there is not a reimbursement from a third party and a preferred customer card that is available to all customers does not constitute a special group.

However, if the discount is reimbursed by a third party and the cash register tape identifies the discount as a manufacturer’s discount; the discount is included in gross proceeds of sales.

6. **Cigarette buy-downs.** Tobacco Town sells cigarettes at its retail store. Tobacco Town enters into an agreement with a cigarette manufacturer to receive a \$2.00 discount for each carton of the promotional brand sold during the agreement period. The agreement requires Tobacco Town to pass the price reduction through to the customer. Tobacco Town places advertising in the store that indicates that the prices are reduced because of a special promotion. Tobacco Town does not show buy-down or discount on the cash register tape. The discount is not included in gross proceeds of sales because the discount is not identified to the customer as a third party discount.

However, if the discount is specifically identified on the cash register tape or invoice as a manufacturer’s discount or if the customer is required to present a coupon, certificate or other documentation to receive the discount, then the discount is included in gross proceeds of sales.

7. **Automobile Rebate.** An automobile manufacturer offers a customer incentive program that provides a \$1,000 rebate to each customer purchasing a specific model of automobile. A customer visits Motorcenter USA to buy a car that is currently under a rebate program. The customer agrees to purchase the car for \$25,000. The customer may choose to pay the entire purchase price of \$25,000 to the dealership and receive the rebate

of \$1,000 directly from the manufacturer or the customer may assign the rebate to the dealership and pay the difference of \$24,000 to the dealership and the dealership will receive the \$1,000 rebate from the manufacturer.

In each instance, the gross proceeds of the sale subject to tax is \$25,000. When the customer assigns a manufacturer's rebate over to the dealer, the dealer receives the rebate from a third party, the rebate is passed through to the customer, the amount of the rebate is known by the dealership at the time of the sale and the rebate is identified as a manufacturer's rebate in the documentation received by the purchaser.

These examples are not intended to be inclusive of all transactions involving coupons, discounts, buy-downs and rebates.

Statutes and Rules: Miss. Code Ann. Sections 27-65-3 and 27-65-23
Title 35, Part IV, Subpart 02, Chapter 02 Mississippi Administrative Code

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