
State of South Carolina
Department of Revenue
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #99-9

SUBJECT: Coupons and Discount Cards
(Sales Tax)

EFFECTIVE DATE: Applies to all periods open under the statute.

SUPERSEDES: SC Revenue Ruling #98-15 and all previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-36-910 (Supp. 1998)
S.C. Code Ann. Section 12-36-90 (Supp. 1998)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1998)
SC Revenue Procedure #97-8

SCOPE: A Revenue Ruling is the Department of Revenue’s official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

How does the use of a coupon or a discount card in purchasing tangible personal property, as described in the facts, affect the measure of the sales tax – “gross proceeds of sales?”

Conclusion:

Based upon the facts set forth below, it is the department’s opinion that:

1. COUPONS:
 - (a) Manufacturer’s Coupon: If a consumer purchases a product from a local retailer using a manufacturer's coupon as described in the facts, and the price charged the consumer by the retailer is reduced by the value assigned the coupon by the manufacturer, then the total amount received by the retailer from the consumer and the manufacturer is includable in “gross proceeds of sales,” and therefore, subject to the sales tax. For example, if an item normally sells for \$5.00 and the customer pays \$4.00 and presents a manufacturer’s coupon valued at \$1.00, then the sales tax is based on \$5.00 (“gross proceeds of sale”) since the retailer receives \$4.00 from the customer and \$1.00 from the manufacturer

Note: If the retailer receives any additional money from the manufacturer as a result of accepting and processing the manufacturer's coupon (i.e. a processing allowance), the additional money, based on longstanding administrative policy, is not a part of "gross proceeds of sale" and therefore not subject to the sales tax. For example, if the retailer in the above example receives an 8 cent processing allowance from the manufacturer as well as \$4.00 from the customer and \$1.00 from the manufacturer for the coupon, then the sales tax is based on \$5.00. The 8 cent processing fee is not a part of "gross proceeds of sale" and therefore not subject to the sales tax

- (b) Self-Redeeming Coupon: If a consumer purchases a product from a local retailer using a retailer's self-redeeming coupon as described in the facts, and the price charged the consumer by the retailer is reduced by the value assigned the coupon by the retailer, then the amount received by the retailer from the consumer is includable in "gross proceeds of sales," and therefore, subject to the sales tax. The value of the retailer's self-redeeming coupon is not includable in "gross proceeds of sales," and therefore, not subject to the sales tax. For example, if an item normally sells for \$5.00 and the customer pays \$4.00 and presents the store's self-redeeming's coupon valued at \$1.00, then the sales tax is based on \$4.00 ("gross proceeds of sale") since the retailer only receives the \$4.00 from the customer.

2. DISCOUNT CARD PROGRAMS:

- (a) Discounts Based on Purchases by the Retailer: Since the allowances described in the facts are based on purchases by the retailer, and not sales, these allowances are not includible in the retailer's gross proceeds of sales. As such, when a store discounts an item under its discount card program due to the allowance it received from the supplier based on its purchases, the discounted price paid by the customer is the basis for the sales tax ("gross proceeds of sale"). For example, if an item normally sells for \$5.00 and the customer pays only \$4.00 since he used his discount card, then the sales tax is based on \$4.00 ("gross proceeds of sale") since the allowance received by the retailer was based on purchases by the retailer, and not sales by the retailer.
- (b) Discounts Based on Sales by the Retailer: Since the allowances described in the facts are based on sales by the retailer, these allowances are includible in the retailer's gross proceeds of sales. As such, when a store discounts an item under its discount card program due to the allowance it will receive from the supplier based on the sale of the particular item, the discounted price paid by the customer plus the amount received by the retailer from the supplier is the basis for the sales tax ("gross proceeds of sale"). For example, if an item normally sells for \$5.00 and the customer pays only \$4.00 since he used his discount card, then the sales tax is based on \$5.00 ("gross proceeds of sale") since the retailer receives \$4.00 from the customer and \$1.00 from the supplier.

Facts:

1. COUPONS:

In order to entice consumers to purchase their products, manufacturers and retailers issue coupons that can be used by the consumer to reduce the price he or she pays for the products.

While there may be other types of coupons, this ruling will only consider two types.

- (a) Manufacturer's Coupons: The first is a manufacturer's coupon. This type of coupon is issued by the manufacturer of a product, and is usually mailed to consumers or placed in newspapers and other publications to be cut out by consumers. If a consumer purchases the manufacturer's product from a local retailer using the coupon, the price charged the consumer by the retailer is reduced by the value assigned the coupon by the manufacturer. For example, if a retailer sells a package of disposable diapers for \$9.75, the customer will only pay \$8.75 if he or she presents the retailer with a \$1.00 manufacturer's coupon. The retailer can then forward the coupon to the manufacturer, who will reimburse the retailer a portion or all of the money the retailer "lost" in accepting the coupon from the customer. In the above example, if the retailer is reimbursed the full \$1.00 by the manufacturer, then the retailer has received \$9.75 from the sale of the disposable diapers - \$8.75 from the consumer and \$1.00 from the manufacturer. In addition, the retailer may also receive additional money from the manufacturer as a result of accepting and processing the manufacturer's coupon (i.e. processing allowance). For example, the retailer in the above example may receive an 8 cent processing allowance from the manufacturer as well as \$8.75 from the customer and \$1.00 from the manufacturer for the coupon.
- (b) Self-Redeeming Coupons: The second type of coupon is one that is issued by the retailer and not the manufacturer of the product. Therefore, if the consumer uses the coupon to reduce the price charged for the product by the retailer, the retailer will only receive the price paid by the consumer from the sale of the product. In the above example, if the \$1.00 coupon was one issued by the retailer, then the retailer will receive only \$8.75 from the sale of the disposable diapers.

2. DISCOUNT CARD PROGRAMS:

Another method used by retailers to entice consumers to purchase certain items or to shop at their store is the discount card program. This ruling will consider two types of discount card programs - one based on purchases by the retailer and one based on sales by the retailer.

- (a) Discounts Based on Purchases by the Retailer: By way of example, a retailer owns and operates numerous stores in South Carolina and surrounding states. Through its stores, the retailer sells at retail a wide variety of products.

The retailer negotiates with and receives promotional and purchase allowances from its suppliers. Some suppliers award allowances based on past purchases and others award allowances based on negotiated amounts.

The retailer can use these allowances to reduce the selling prices of a supplier's products and/or to advertise or otherwise promote the supplier's products. The taxpayer may retain the allowance and not reduce the retail price. All allowances are paid directly to the retailer by the suppliers.

One method used by the retailer to promote certain products is a discount card program. This program was developed by the retailer to direct discounts to a select group of customers and to promote customer loyalty. Under this program, the retailer issues an encoded electronically-readable card to its customers. The card is similar in appearance to and functions like a bank automatic teller card. Each card carries unique information about each customer and enables the retailer to collect data related to the customer's buying habits.

When a customer makes a purchase, he or she presents the card to the cashier. The retailer then discounts the price of selected products purchased by the cardholder.

While the supplier allowances provide funds for the retailer to pass additional discounts to its cardholders, the use of the card does not affect the amount of allowances the suppliers pay to the retailer. The allowances received are based on past purchases from, or previous negotiations with, a supplier. There is no direct connection between a customer using his or her card to buy a particular product and the amount the retailer receives from the product's supplier.

- (b) Discounts Based on Sales by the Retailer: A second type of discount card program is very similar to the one discussed above; however, it differs in one important aspect. Under this alternative program, the retailer does not negotiate a discount on the items it purchases at wholesale. The retailer agrees to sell the supplier's product at a discounted price and the supplier agrees to reimburse the retailer the amount of the discount for each sale of the product. Essentially, this discount card program is operated in the same as manufacturer's coupons, only without the coupon.

Discussion:

- 1. COUPONS: Code Section 12-36-910 imposes "a sales tax, equal to five percent of gross proceeds of sales, upon every person engaged ... within this State in the business of selling tangible personal property at retail." (Emphasis added.)

Code Section 12-36-90 reads, in part:

Gross proceeds of sales, or any similar term, means the value proceeding or accruing from the sale, lease, or rental of tangible personal property.

- (1) The term includes:

* * * *

- (b) the proceeds from the sale of tangible personal property without any deduction for:

- (i) the cost of goods sold;
- (ii) the cost of materials, labor, or service;

- (iii) interest paid;
- (iv) losses;
- (v) transportation costs;
- (vi) manufacturers or importers excise taxes imposed by the United States; or
- (vii) any other expenses.

(2) The term does not include:

- (a) a cash discount allowed and taken on sales;

* * * *

In summary, with respect to the retailer's self redeeming coupon, as described in the facts, gross proceeds of sales is the amount paid by the consumer. With respect to the manufacturer's coupon, as described in the facts, the following should provide guidance.

Opinion of the Attorney General S-OAG-45 (SC Department of Revenue Manual of Regulations and Opinions of the Attorney General) concerns a manufacturer's rebate paid to the purchaser, and reads in part:

There is nothing in the sales tax statutes or regulations permitting a seller to deduct from his gross proceeds an amount paid by a third party to or for the benefit of a purchaser, even though the purpose of the payment is to reimburse the purchaser for a part of the purchase price.

While the rebate in question was paid to the purchaser, there is still nothing in the sales tax statute permitting the retailer to deduct from gross proceeds an amount that is paid to the retailer by a third party.

Also, in Meyers Arnold v. South Carolina Tax Commission, 285 S.C. 303, 328 S.E. 2d. 920 (1985), the Court of Appeals, in interpreting the definition of "gross proceeds of sales" with respect to lay away fees paid in conjunction with lay away sales, held:

Section 12-35-30 [now Section 12-36-90] defines gross proceeds of sales as

"the value proceeding or accruing from the sale of tangible personal property ... without any deduction for service costs." But for the lay away sales, Meyers Arnold would not receive the lay away fees. The fees are obviously rendered in making lay away sales. For these reasons, this court holds the lay away fees are part of the gross proceeds of sales and subject to the sales tax.

Therefore, but for the sales, the retailer would not receive the reimbursement from the manufacturer's coupon.

However, it has been the department's longstanding policy not to include the processing fees paid with respect to a manufacturer's coupon in "gross proceeds of sales." Administrative interpretations of statutes by the agency charged with their administration and not expressly changed by the legislative body are entitled to great weight. Marchant v. Hamilton, 279 S.C. 497, 309 S.E. 2d 781(1983). When as in this case, the construction or administrative interpretation of a statute has been applied for a number of years and has not been changed by the legislature, there is created a strong presumption that such interpretation or construction is correct. Ryder Truck Lines, Inc. v. South Carolina Tax Commission, 248 S.C. 148, 149 S.E.2d 435 (1966); Etiwan Fertilizer Company v. South Carolina Tax Commission, 217 S.C. 354, 60 S.E.2d 682 (1950). See Statutes Key Nos. 219(3) & 223.5(2).

2. DISCOUNT CARD PROGRAMS: As stated above, Code Section 12-36-910(A) imposes the South Carolina sales tax on a retailer's "gross proceeds of sales." The term "gross proceeds of sales" is defined in Section 12-36-90, in part, as "the value proceeding or accruing from the sale...of tangible personal property."

In other words, "gross proceeds of sales" is the total amount received or earned by a retailer as a result of selling his products. The source of the amount received or earned is irrelevant. What matters is whether the amount is received or earned as the result of a retail sale. For example, if a manufacturer were to pay ("manufacturer's rebate") a retailer 15 cents for each sale by the retailer of the manufacturer's product and the retailer received 85 cents from the customer, the amount subject to the sales tax would be \$1.00, the 15 cents received from the manufacturer and the 85 cents received from the customer.

As stated in the facts, some allowances, unlike manufacturer's rebates which are paid to the retailer as the result of a customer buying a particular product, are paid based on purchases made by the retailer during the previous year or as a result of previous negotiations with the supplier. They are received based on purchases of the manufacturer's products by the retailer, not on sales of those products by the retailer to the retailer's customers. Therefore, these allowances are not includible in the retailer's gross proceeds of sales and are not subject to sales tax. In contrast to the above "manufacturer's rebate" example, if the retailer were to give each customer a 15 cent discount on a product that normally sells for \$1.00 when a customer uses his or her card to buy the product, the measure of the sales tax on the sale would be 85 cents.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/ Elizabeth A. Carpentier

Elizabeth A. Carpentier, Director

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