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Streamlined Sales Tax Project Discussion Paper

Definition of Sales Price – Payments Received from Third Parties

Background:

The Streamlined Sales and Use Tax Agreement (as amended November 19, 2003) provides in part that "sales price" means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise. "Sales price" does not include "*Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale...*"

Issue:

What payments that a retailer receives from a third party are included in the sales price of sales of tangible personal property or taxable services?

The table below provides examples of various types of reimbursements and gives the proposed tax treatment and industry concerns.

Example	SSTP Proposed Treatment	Industry Concerns
Consideration Tendered from Purchaser to Retailer		
1. Store coupons. Retailer A distributes store coupons that may be redeemed for 50 cents off the purchase price of laundry soap. Customer purchases laundry soap for \$3.00 and presents the store coupon, paying Retailer \$2.50. Retailer A does not receive any reimbursement from a third party.	"Sales price" is \$2.50.	No apparent concerns.
2. Manufacturer coupons. Manufacturer B distributes coupons that may be redeemed for 50 cents off the purchase price of laundry soap. Customer purchases laundry soap for \$3.00 and presents the store coupon, paying Retailer A \$2.50. Manufacturer B reimburses Retailer A 50 cents plus compensation for accepting the coupon.	"Sales price" is \$3.00. The compensation for accepting the coupon is not included in "sales price."	No apparent concerns.
3. Manufacturer rebates. Customer purchases an automobile from Retailer C for \$20,000 for which Manufacturer D offers a \$2,000 rebate. Retailer C receives \$18,000 and the appropriate rebate documents from Customer and also receives \$2,000 from Manufacturer D.	"Sales price" is \$20,000.	No apparent concerns.

Example	SSTP Proposed Treatment	Industry Concerns
Inventory Price Adjustments		
<p>4. Wholesale incentives-no reimbursement. Manufacturer A reduces by \$5.00 per carton the price that a retailer is required to pay Manufacturer A for the cigarettes and does not limit or in any way restrict the price for which the retailer may sell the cigarettes.</p>	<p>The \$5.00 discount does not affect the "sales price" for the retailer's sale of the cigarettes.</p>	<p>No apparent concerns.</p>
<p>5. Wholesale incentives-reimbursement. In order to increase sales of product currently held by retailers, Manufacturer B offers to pay Retailer C \$1.00 for each case of a certain brand of soda that Retailer C sells during the next month, provided the retailer sells at least 500 cases. The payment from Manufacturer B to Retailer C is made after Retailer C has sold the soda. Manufacturer B does not in any way limit or restrict Retailer C's ability to determine the retail price for which the soda may be sold. However, Retailer C chooses to give a discount on its sales of the soda.</p>	<p>The \$1.00 per case payment does not affect the "sales price" for the Retailer C's sale of the soda.</p>	<p>Industry concerned that states will impose sales tax on the reimbursement.</p>
<p>6. Holdbacks. Manufacturer D sells an automobile to Retailer E for \$20,000. At the time, Retailer E knows Manufacturer E will adjust that price by \$800 when the vehicle is sold by Retailer E. After the vehicle is sold, Manufacturer D pays Retailer E \$800 for the "holdback." Holdback payments from Manufacturer D to Retailer E are made quarterly. Manufacturer D does not in any way limit or restrict Retailer E's ability to determine the retail price for which the automobile may be sold (Retailer E may choose to give a discount on its sales of the automobile).</p>	<p>The \$800 holdback payment does not affect the "sales price" for the Retailer E's sale of the automobile.</p>	<p>Industry concerned that states will impose sales tax on holdback payment.</p>
<p>7. Advertising Co-ops. Manufacturer F provides a credit for half of Retailer G's approved advertising expenses up to 5% of Retailer G's purchases from Manufacturer F for the calendar year. The credit is allowed on Retailer G's future purchases from Manufacturer F. Manufacturer F does not in any way limit or restrict Retailer G's ability to determine the retail price for which the product may be sold (Retailer G may choose to give a discount on its sales of the product).</p>	<p>The credit does not affect the "sales price" for the Retailer E's sale of the product.</p>	<p>Industry concerned that states will impose sales tax on the credit allowed.</p>

Example	SSTP Proposed Treatment	Industry Concerns
Reimbursements on Required Discounts		
<p>8. Employee Discounts. Manufacturer A establishes a price of \$25,000 for the sale of an automobile to one of its employees. Retailer B sells the automobile to the employee for \$25,000, which may be below what Retailer B could sell the automobile for to another party. Retailer B receives a payment of \$25,000 from the employee. As a result of making this sale, Retailer B is entitled to a \$1,000 payment from Manufacturer A. Rather than a cash payment, a credit of \$1,000 is allowed against an invoice from Manufacturer A to Retailer B for parts.</p>	<p>"Sales price" is \$26,000.</p>	<p>Unknown.</p>
<p>9. Cigarette buy-downs. Manufacturer C and Retailer D enter into a contract that requires, during the next month, Manufacturer C to pay to Retailer D \$5.00 for each carton of Manufacturer C's cigarettes sold by Retailer D to a consumer and requires Retailer D to reduce the price it can charge a consumer for the carton of cigarettes by \$5.00.</p>	<p>The \$5.00 payment is included in "sales price."</p>	<p>Industry disagrees, because nothing of value is tendered by the customer to Retailer D.</p>
Discounts Not Reimbursed		
<p>10. Advertising incentives. Under a promotional agreement to increase sales of a certain product line in the next quarter, Manufacturer A will reimburse Retailer B for advertising expenses incurred in that quarter not to exceed 10% of Retailer B's sales of those products for the quarter. Manufacturer A does not in any way limit or restrict Retailer B's ability to determine the retail price for which the product may be sold (Retailer B may choose to give a discount on its sales of the product).</p>	<p>Payment not included in "sales price."</p>	<p>Industry concerned that states will impose sales tax on the payment.</p>
<p>11. Shelf space. Under a promotional agreement for the next quarter, Manufacturer C is required to pay Retailer D a certain dollar amount at the end of the quarter if Retailer D devotes a certain amount of shelf space to Manufacturer C's products. Manufacturer C does not in any way limit or restrict Retailer D's ability to determine the retail price for which the product may be sold (Retailer D may choose to give a discount on its sales of the product).</p>	<p>Payment not included in "sales price."</p>	<p>Industry concerned that states will impose sales tax on the payment.</p>