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September 2011

Gift Cards, Vouchers and Layaway Fees
Summary Paper – SLAC Assignment Request

Overview:

The definition of sales price is found in Appendix C, Part I, Library of Definitions. The “sales price” definition requires states to include in the measure subject to tax the following:

- “Total amount of consideration,”
- “without any deduction” for costs and expenses of the seller, and
- excluding discounts that are not reimbursed by a third party that are allowed by the seller and taken by a purchaser on a sale.

The Agreement’s “sales price” definition:

“**Sales price**” applies to the measure subject to sales tax and 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, without any deduction for the following. . .

B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

“Sales price” shall not include:

A. 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.

States may exclude from “sales price” the amounts received for charges included in paragraphs (C) through (F) above, if they are separately stated on the invoice, billing, or similar document given to the purchaser.

C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

Discussion

Vouchers:

Several SLAC delegates have indicated that their states have received questions concerning what is the measure subject to tax when the purchaser tenders a voucher, such as provided by Groupon or Living Social, to make purchases of products from a seller. The issue has also been raised by members of the business community. In particular, the following questions have arisen:

- (1) Do the vouchers represent consideration?
- (2) If the vouchers represent consideration, is the value of the consideration equal to the face value of the voucher, the actual amount paid by the purchaser to obtain the voucher, or some other measure?

When discussing these types of vouchers available to purchasers, additional questions arise when comparisons are made to states laws, rules and policies concerning script and gift cards and gift certificates to the vouchers being sold today. To insure consistent application among member states of the definition of “sales price,” SLAC is requesting assignment to develop an interpretative rule related to the “sales price” definition addressing the sale of gift cards and vouchers to be used by the purchaser to make a subsequent purchase from the seller of taxable and nontaxable products.

Layaway fees:

States have been asked questions regarding the treatment of layaway fees in determining the measure subject to tax. Most states have laws, rules and policies regarding layaway fees. However, with the adoption of the uniform definition of sales price, questions have arisen as to what provisions of the uniform sales price definition apply to layaway fees. In particular, the following questions have arisen:

- 1) Is the layaway fee part of the “total amount of consideration, including cash, credit ..., for which the personal property is sold...” and may not be excluded from sales price; or
- 2) Is the layaway fee included in sales price as “charges by the seller for any services necessary to complete the sale, other than delivery and installation charges and for states electing this option (toggle), layaway fees would be excluded from “sales price” when separately stated on the invoice, bill of sale, or similar document given to the purchaser?

SLAC is requesting assignment to develop recommendations for an amendment to the “sales price” definition rule to address the application of the “sales price” definition to layaway fees.