

Streamlined Sales Tax Governing Board, Inc.
Compliance Review and Interpretations Committee

INTERPRETATION/DEFINITION REQUEST

Complete each section

1. Name(s) of Requestor(s): Loren Chumley

2. Contact Person: Name Loren Chumley
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3. Agreement Section(s) involved: Sales Price definition, Appendix C Part I

4. Statement of Background Facts (be succinct): Client owns and franchises store locations worldwide and has locations in all of the SST member states. Client sells services and tangible personal property (“TPP”) at its store locations.

Client is starting a program to sell TPP through catalogs and its Website. At this time, the TPP generally consists of tools used in delivering services to customers but Client expects to expand the TPP offerings. Employees, franchisees and the general public may make purchases from Client through a catalog or through the Client’s Website the internet. Client purchases the inventory on a resale certificate.

Client has implemented an Employee Points Program that serves as an incentive for employees to reach specific goals set by Client’s management. The points accumulated by each employee may be redeemed for cash, travel, or discounts on purchases of TPP sold through catalog or the Website. Neither franchisees nor members of the general public are allowed to purchase tools through the use of points.

An employee may use points to discount the regular price of a tool as shown on the catalog or Website. Depending on the number of points that an employee redeems, the price could be partially discounted or could be reduced to zero. Client does not receive consideration from a third party as reimbursement for the discount.

Client charges a separately stated fee for delivery of the TPP. In some cases, the Client may permit an employee to offset the delivery charge by use of the points. In other words, if a tool is \$100 and the delivery charge is \$10, an employee could use points to offset the \$100 but would still have to pay \$10 for delivery of the TPP. In some cases, an employee could use points to offset both the \$100 plus the \$10 delivery charge, in which case the price paid by the employee would be \$0.

For purposes of this interpretation request, assume that no entity-based, product or use-based exemptions exist with respect to the purchases of TPP. For purposes of this interpretation request, assume that no services are necessary to complete the sale, no installation charges are made and no trade-in credit is applicable.

5. Issue:

- 1) Are the points which are allowed by the Client and taken by the employee on the sale considered a discount that is excluded from the sales price of the TPP?

- 2) If the sale is made in a member state that includes delivery charges in the definition of the sales price, is the measure of the tax base subject to sales tax equal to the discounted charge for the TPP (which could be zero) plus the delivery charge (which could be zero)?
- 3) If the sale is made in a member state that excludes delivery charge from the definition of the sales price, and the state does not separately tax delivery charges as a service, is the measure of the tax base subject to sales tax equal to the discounted charge for the TPP (which could be zero)?

6. Proposed Interpretations:

- 1) Based on the facts submitted, the points that are allowed by the Client and taken by the employee as a reduction to the published price of the TPP are considered a discount that is excluded from the sales price of the TPP.
- 2) If the sale is made in a member state that includes delivery charges in the definition of the sales price, the measure of the tax base subject to sales tax is equal to the discounted charge for the TPP (which could be zero) plus the delivery charge (which could be zero).
- 3) If the sale is made in a member state that excludes delivery charge from the definition of the sales price, and does not separately tax delivery charges as a service, the measure of the tax base subject to sales tax is equal to the discounted charge for the TPP (which could be zero).

7. Is expedited consideration requested? No X Yes **If yes, please explain why expedited review is requested:**

Client is commencing this new business operation and wants to ensure that it is compliant in the SST member states.

A request for interpretation/definition normally requires a minimum 60-day comment period. The comment period may be shortened to 10 days if the Committee grants a request for expedited consideration. See Governing Board Rule 902(D) and (H).

8. Date this Request is submitted: June 29, 2009

The Compliance Review and Interpretations Committee meets by teleconference at 10:00 am central every other Thursday. Their schedule can be found at: www.streamlinedsalestax.org under the meeting calendar.

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F0007 Interpretation Definition Request (4/10/08)