

**280-RICR-20-70-56**

## **TITLE 280 – DEPARTMENT OF REVENUE**

### **CHAPTER 20 – DIVISION OF TAXATION**

#### **SUBCHAPTER 70 – SALES AND USE TAX**

**PART 56 – Coupons – Discounted Selling Price - Buydowns**

##### **56.1 Purpose**

This regulation implements R.I. Gen. Laws Chapter 44-18. This regulation provides for sales tax liability for purchases that involve coupons, discounted selling prices, or buydowns.

##### **56.2 Authority**

This regulation is promulgated pursuant to R.I. Gen. Laws Chapter 44-18 as amended, R.I. Gen. Laws §§ 44-1-4, 44-18.1-1 and 44-19-33. Additionally these regulations have been prepared in accordance with the requirements of R.I. Gen. Laws Chapter 42-35 - Rhode Island Administrative Procedures Act.

##### **56.3 Application**

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department of Revenue to effectuate the purposes of R.I. Gen. Laws Chapter 44-18 and other applicable state laws and regulations.

##### **56.4 Severability**

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

##### **56.5 Generally**

- A. Cash discounts allowed and taken at the time of sale are excluded from the sales price of tangible personal property upon which the sales tax is based. Cash discounts which are given to customers after the time of sale are not excluded from the sales price.
- B. “Sales price” shall not include:

1. 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.
- C. The sales price shall not include manufacturer rebates allowed on the sale of motor vehicles.
- D. “Sales price” shall include consideration received by the seller from third parties if:
1. The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
  2. The seller has an obligation to pass the price reduction or discount through to the purchaser;
  3. The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
  4. One of the following criteria is met:
    - a. The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
    - b. The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a “preferred customer” card that is available to any patron does not constitute membership in such a group), or
    - c. The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

## **56.6 Price Reduction Coupons**

- A. In general, sales tax treatment of purchases made or items obtained using coupons which result in a reduced price to the consumer is based on whether or not the retailer can be reimbursed for the coupon by a manufacturer or other third party.

- B. "Retailer's or Store Coupons" are coupons issued by the retailer. When a retailer issues a store coupon and receives no reimbursement for the value of the coupon from any third party the tax is computed on the discounted sales price. This type of coupon is a seller's discount which is deducted from the sale price before computing the sales tax.
- C. "Manufacturer's Coupons" are coupons issued by a manufacturer, distributor, promoter, or any other third party. When a retailer accepts a manufacturer's coupon for which it receives reimbursement from the product manufacturer or any third party, the sales tax is computed on the full selling price of the item, i.e., the consideration paid to the retailer plus the face value of the coupon. The reimbursement may be in any form, including cash or credit towards the purchase of additional merchandise.
- D. If a retailer offers customers, upon presentation of a manufacturer's coupon, a discount on the usual sales price of tangible personal property at double or triple the value of the coupon, and the retailer receives reimbursement from any source for the coupon, the tax is computed on the sum of the discounted price and the face value of the coupon.

## **56.7 Special Offers**

- A. If a retailer offers customers, upon presentation of a coupon, merchandise unconditionally free of charge, merchandise free of charge with the purchase of other merchandise or two items for the usual price of one, and the retailer receives reimbursement from a manufacturer, distributor, promoter or other source for the coupon, the sales tax is levied on the usual sales price of the item or items. The reimbursement may be in any form, including cash or credit towards the purchase of additional merchandise.
- B. If a retailer sells an item to a customer at a discounted price and is reimbursed for the amount of the discount by a third party, the tax is computed on the discounted price of the item plus the reimbursement received whether or not a coupon is presented to the retailer.
- C. If a retailer gives a customer an item unconditionally free of charge upon presentation of a coupon, and the retailer receives no reimbursement from any source for the coupon, the retailer is considered the consumer of that item and is responsible for the payment of a sales or use tax based upon the amount it paid for the item.

## **56.8 "Free" Meal Coupons**

- A. In general, the sales tax treatment of a "free" meal furnished to a customer who purchases another meal and presents a coupon or card for the free meal depends, like other coupon items, upon whether the restaurant receives any reimbursement for the coupon or card.
- B. If the restaurant issues its own coupon free of charge and does not receive any reimbursement for the coupon or card, the restaurant is regarded as selling two meals for the price of one and only one meal is subject to tax. If the restaurant accepts a coupon or card which the customer previously purchased from a third party having a contract with the restaurant to redeem the coupons or cards and the restaurant is not reimbursed for the coupon or card, the restaurant is regarded as selling two meals for the price of one and only one meal is subject to tax.
  - 1. (If the restaurant requires a gratuity to be imposed on the value of the two meals, the entire gratuity is part of the taxable receipts.)
- C. When a restaurant agrees to furnish a "free" meal to a customer who purchases another meal and presents a coupon or card, which the customer previously had purchased directly from the restaurant or through a sales promotional agency having a contract with the restaurant to redeem the coupons or cards, the restaurant is regarded as selling two meals for the price of one, plus any additional compensation from the agency or from its own sales of coupons. Any such additional compensation is a part of its taxable gross receipts for the period in which the meals are served and, as such, the tax applies only to the price of the paid meal plus any such additional compensation.
- D. The sale of a "free" meal coupon, coupon booklet, or card to the ultimate consumer of meals is not subject to tax.

## **56.9 Loyalty Discount Card**

If a retailer offers a loyalty discount card at no cost to any customer which can be used for selected discounts and savings when presented at the register and the discounts are identified on the register tape, either on an item by item basis or as a total savings at the end of the register tape, the discounts are not included in the sales price if there is no reimbursement received from a manufacturer or other third party. In the case of the loyalty discount card, where the retailer has an agreement with the manufacturer to reimburse some of the discount, the discount is not included in the sales price unless it is identified on the register tape as a "manufacturer's discount."

## **56.10 Buydowns**

“Cigarette Buydowns.” When a retailer sells cigarettes and pursuant to an agreement with the distributor receives a discount for every pack sold, and the discount is passed from the retailer to the customer, the buydown discount is not included in the sale price if it is not shown on the customers invoice or register receipt. If the customer’s receipt identifies the buydown discount, it is not included in the sales price unless the discount is identified on the receipt as a manufacturer’s discount.

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**PART 56 - COUPONS – DISCOUNTED SELLING PRICE - BUYDOWNS (280-RICR-20-70-56)**

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