State of Rhode Island - Division of Taxation

Sales and Use Tax

Regulation SU 95-139

Cellular Telephones - Sold in Bundled Transactions - Promotional Use by Carriers

A. BUNDLED TRANSACTIONS:

It has become a common practice in the cellular telephone industry for dealers to sell cellular telephones to their customers in so-called "bundled" transactions. In these transactions, a dealer gives a purchaser an allowance with respect to the usual retail sales price of the cellular telephones in exchange for the purchaser's agreement to become and to remain a subscriber with a particular cellular phone service carrier for a minimum service period. The carrier, in turn, pays the dealer a set amount on behalf of each new subscriber pursuant to an agreement with the dealer.

For sales tax purposes, the sales price of a cellular telephone sold in a "bundled" transaction is the same as the sales price of the telephone sold in an "unbundled" transaction. Therefore, the dealer must compute the sales tax based upon its retail sales price of the cellular phone and the amount received from the carrier pursuant to the agreement with the dealer.

B. PROMOTIONAL USE BY CARRIERS:

Cellular telephone carriers ("carriers") frequently use cellular telephones as promotional items in their efforts to solicit new subscribers. In a typical transaction, a carrier will offer to provide a cellular telephone to a customer at no additional charge or for a nominal consideration, if the customer agrees to become and remain a subscriber for a set minimum period, usually one or two years.

For example, under a promotional program a carrier may offer to sell a new cellular telephone for $19.95 to any customer who agrees to become a new subscriber for a period of one year. A customer who accepts this promotion pays the same price for cellular service as customers who do not. The telephone itself has a wholesale cost of $200.00.

In the example above the carrier would be liable for the tax based upon its cost of the items. In the event the carrier collected a tax from its customer based upon the amount of nominal consideration charged from the telephones it may claim an offsetting credit for that amount.

R. GARY CLARK
TAX ADMINISTRATOR

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