

STATE OF COLORADO

DEPARTMENT OF REVENUE
State Capitol Annex
1375 Sherman Street, Room 409
Denver, Colorado 80261
Phone (303) 866-3091
FAX (303) 866-2400



John Hickenlooper
Governor

Roxanne Huber
Executive Director

GIL-11-006

April 26, 2011

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

Attention: XXXXXXXXXXXXX

Re: Taxability of Manufacturer's Coupons

Dear XXXXXXXXXXXX,

You submitted on behalf of XXXXXXXXXXXX ("Company") a request for guidance on the application of sales tax on manufacturer coupons on November 16, 2009. The department discontinued issuing general information letters in late 2009 due to budgetary cutbacks, but has recently reinstated issuing these letters. The department issues general information letters and private letter rulings. A general information letter provides a general overview of the relevant tax issues and is not binding on the department. A private letter ruling provides a specific determination for a specific set of facts, is binding on the department but not the taxpayer, and requires payment of a fee. For more information about general information letters and private letter rulings, please see Department regulation 24-35-103.5 at www.taxcolorado.org > FYI/Publication > Rulings.

The department initially treats your request as one of a general information letter. If you would like the department to issue a private letter ruling on the issues you raise, you can resubmit a request and fee in compliance with regulation 24-35-103.5. It is important to remember that general information letters, such as this one, are general discussions of tax law and are not a determination of the tax consequence of any particular action or inaction.

Issue

Are manufacturer coupons included in the gross receipts subject to Colorado sales tax?

Background

Company is a retail drug store, and asks whether manufacturer coupons are included in the total gross receipts upon which Colorado sales tax is levied. In addition, Company asks how sales tax is calculated when a customer uses manufacturer's coupons and pays for the article with food stamps or an Electronic Benefits Transfer (EBT) card.

Discussion

A manufacturer's coupon is issued by the manufacturer to consumers who present the coupon to the retailer as partial payment of the purchase price. The retailer, in turn, presents the coupon to the manufacturer who pays the retailer the coupon value. In effect, the manufacturer is paying a portion of the purchase price charged by the retailer to the consumer. This transaction is theoretically no different than one in which a consumer enlists the aid of a third party who pays on behalf of the consumer a portion of the retailer's purchase price. In both cases, sales tax is calculated on the retailer's full purchase price without deducting the manufacturer's coupon.¹

A retailer's coupon is different from a manufacturer's coupon. A retailer's coupon is issued by the retailer and is essentially a reduction in the purchase price charged by the retailer for goods. Importantly, the retailer is not reimbursed for the price reduction by a third party, such as a manufacturer. As is the case when the retailer reduces its price to entice sales, sales tax is calculated on the reduced purchase price – i.e., the full purchase price minus the value of the retailer's coupon.²

Since October 1, 1987, the sale of food purchased with food stamps or EBT cards pursuant to the federal Food Stamp Program has been exempt from Colorado sales tax and from all local sales taxes, including those of home rule municipalities.³ Because the sale is exempt, it does not matter for sales tax purposes whether the consumer presents a manufacturer's coupon or retailer's coupon. We note in passing that only food items can be purchased with food stamps and, therefore, the purchase of items other than food fall within the general rules discussed above. For more information about what qualifies as food under the federal Food Stamp program, see Department regulation 39-26-102.4.5.

Miscellaneous

Pursuant to state law and department regulation 24-35-103.5, noted above, the Department will make public a redacted version of this letter. Your letter requesting this general information letter is not made public. I enclose a proposed redacted version of this letter. Please contact me within 60 days from the date of this letter if you have any questions, comments, or objection concerning the redacted letter.

I hope this is helpful. Please feel free to contact me if you have any questions.

Sincerely,

Neil L. Tillquist
Colorado Department of Revenue

¹ Special Regulation 11 (Coupons), 1 CCR 201-5.

² Special Regulation 11 (Coupons), 1 CCR 201-5

³ §39-26-707, C.R.S. and Colo. Code Regs. 39-26-102.4.5