

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-83(6)S
Sales Tax
February 17, 1983

STATE OF NEW YORK
STATE TAX DEPARTMENT

ADVISORY OPINION

PETITION NO. S830104A

On January 4, 1983, a Petition for Advisory Opinion was received from Redman Homes, Inc., P.O. Box 428, Ephrata, Pennsylvania 17522.

The issue raised is whether discounts, such as early payment discounts, trade discounts and volume discounts, and freight or transportation charges, are exempt from New York State and local sales taxes. Petitioner raises this issue within the context of sales, by a manufacturer, of mobile homes to dealers.

Section 526.5(g) of the Sales and Use Tax Regulations provides, in part, that, "The cost of transportation of tangible personal property, sold at retail, which is separately stated in the written contract, if any, and on the bill rendered to the purchaser is excluded from the receipts subject to tax. (2) To qualify for the exclusion transportation costs must be for the delivery of the tangible personal property to the purchaser "

The sale of a mobile home by Petitioner to a dealer is, by statute, a retail sale. Tax Law, §§1115(a)(23) Accordingly, Petitioner should not collect sales tax on that portion of its charges to the dealer which represent transportation charges and which are separately stated in the written contract, if any, between Petitioner and the dealer, and on the bill rendered to the dealer.

Section 526.5(d) of the Sales and Use Tax Regulations provides, in part that: "(1) Discounts which are granted by a vendor, for the purpose of encouraging prompt payment on an account, known as 'early payment discounts' are not deductible from receipts.

Example 1: A vendor grants a purchaser a 2% discount for paying the price of a \$100.00 camera within 10 days, and expects payment of the full price if paid within 30 days. The sales tax, in a 7% area, is \$7.00 on the taxable receipt of \$100.00, whichever method of payment the customer chooses.

DISCOUNT METHOD

FULL PRICE METHOD

\$100.00 Price

\$100.00

7.00 Tax
\$107.00

7.00
\$107.00

2.00 Discount
\$105.00 Due

- (2) Discounts which represent a reduction in price, such as a trade discount, volume

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discount or cash and carry discount are deductible in computing receipts.

Example 2: A vendor grants a purchaser a 30% discount for purchasing 1,000 light bulbs. The taxable receipt will be the discount price. The bill in a 7% area, should be similar to:

1,000 Bulbs at 50¢	\$500.00
Less 30%	<u>150.00</u>
	\$350.00
Tax at 7%	<u>24.50</u>
Due	\$374.50

Example 3: A vendor grants a purchaser a 10% cash and carry discount. The taxable receipt will be the discounted price. The billing in a 7% area should be similar to:

Merchandise	\$50.00
Less 10%	<u>5.00</u>
	\$45.00
Tax at 7%	<u>3.15</u>
Due	\$48.15"

Accordingly, when Petitioner offers a dealer an early payment discount, such discount is not considered to be a reduction in the selling price and is not to be deducted from the taxable receipts. Petitioner must collect sales tax on the total charge to the dealer, including the early payment discount.

When Petitioner allows the dealer a trade discount or a volume discount, such discount is considered to be a reduction in the selling price. Accordingly, Petitioner should not collect sales tax on that portion of the charges identified as a trade discount or volume discount.

DATED: February 2, 1983

s/FRANK J. PUCCIA
Director
Technical Services Bureau