

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

TSB-A-92 (64) S
Sales Tax
August 24, 1992

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S920520A

On May 20, 1992 a Petition for Advisory Opinion was received from Price Chopper Operating Co., Inc., P.O. Box 1074, Schenectady, New York 12301.

The issue raised by Petitioner, Price Chopper Operating Co., Inc., is what is the proper method by which to notify a customer of a manufacturer's coupon which does not reduce the amount of the purchase price subject to sales tax when there is no paper coupon available.

Petitioner has instituted an electronic coupon system called "Advantage" which allows for the automatic deduction at the point of sale of manufacturer's coupons which reduce the amount of the purchase price of the product without the physical presentation of a paper coupon. The coupon item is rung up on the register at full retail and at the bottom of its tape Petitioner's scanning system automatically deducts the amount of the coupon. Petitioner's register tape provides sufficient detail to identify the product to which the coupon applies.

Where there is no paper coupon available, Petitioner proposes to indicate by a code such as "MFG" or "M" on the shelf label that the product is a manufacturer's coupon item. The shelf label would be changed as the product is offered for sale with coupon or without coupon. Petitioner presently prints "MFG" or "M" on manufacturer's coupons printed in its in-store circulars and newspaper inserts even though these letters are printed only to inform the customer of the available "Advantage" products for the week.

Section 526.5(c) of the sales and use tax regulations provides as follows:

(c) Coupons. (1) Where a manufacturer issues a coupon entitling a purchaser to a credit on the item purchased, the tax is due on the full amount of the receipt. The receipt is composed of the amount paid and the amount of the coupon credit. The coupon credit reflects a payment or reimbursement by another party to the vendor.

Example 1: A manufacturer issues coupons entitling the holder to credit allowances of 12¢ on the purchase of its products from a retailer. The tax is computed as follows by the retailer:

Regular price	63¢
Tax at 7% rate	<u>5¢</u>
	68¢
Credit for mfr. coupon	<u>12¢</u>
Amount due from purchaser	56¢

(2) Where a store issues a coupon, entitling a purchaser to a credit on the item purchased, for which it is reimbursed by a manufacturer or distributor, the tax is due on the full amount of the receipt. The receipt is composed of the amount paid and the amount of the coupon credit. The coupon must indicate, by "mfr" or some other code, that reimbursement is made. The reimbursement from the manufacturer or distributor to the store may be made in any form, such as cash or a credit against purchases or in additional merchandise.

Example 2: A store issues a coupon, labeled "mfr" entitling the holder to a credit allowance of 12¢ on the purchase of its products from a retailer. The purchaser is billed as follows by the retailer:

Regular price	63¢
Tax at 7% rate	<u>5¢</u>
	68¢
Credit for mfr. coupon	<u>12¢</u>
Amount due from purchaser	56¢

(3) Where a store issues a coupon entitling a purchaser to a discounted price on the item purchased, and receives no reimbursement, the tax is due from the purchaser on only the discounted price, which is the actual receipt.

Example 3: A store issues coupons entitling the holder to credit allowance of 12 cents on the purchase of its products from a retailer. The purchaser is billed as follows by the retailer:

Regular price	63¢
Store coupon	<u>12¢</u>
	51¢
Tax at 7 percent rate	<u>4¢</u>
Amount due from purchaser	55¢

(4) Where a store issues a coupon involving manufacturer's reimbursement, but does not disclose that fact to the purchaser on the coupon or in the advertisement, the vendor will collect from the purchaser only the tax due on the reduced price, but will be required to pay the tax on the entire receipt--the amount of the price and the reimbursement received from the manufacturer or distributor.

Under Section 526.5(c)(4) of the Sales and Use Tax Regulations in order for the use of the manufacturer's coupon to be entitled to the method of tax computation set forth in Section 526.5(c)(1) of the Regulations, the manufacturer's reimbursement must be disclosed to the purchaser on the coupon or in the advertisement for the product. In the instant case, since there are no physical coupons, this information must be contained in Petitioner's advertisements. Petitioner must show that

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the item was the subject of a manufacturer's coupon by indicating "MFG" or "M" on manufacturer's coupons printed in-store circulars and newspaper inserts. The indication by a code such as "MFG" or "M" on the shelf label alone would not meet the disclosure requirements of Section 526.5(c)(4) of the Regulations.

DATED: August 24, 1992

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions
are limited to the facts set forth therein.