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Commercial activity tax definition of "cash discounts".

(A) For purposes of the commercial activity tax, "cash discounts" (i.e., reductions in gross revenue) are excluded from a taxpayer's "gross receipts" pursuant to division (F)(2)(bb) of section 5751.01 of the Revised Code.

(B) For purposes of this rule, "cash discounts" include the following:

(1) "X per cent, y-day" discounts, where the purchaser may take a percentage cash discount on the invoice price if payment is made within a specified period of time of the invoice date; otherwise the entire invoice price is due by the net date;

(2) Provided they are only based on making timely payments or volume purchases;

(a) Incentive-based rebates received by a purchaser, but not the purchaser's customer; and

(b) Discounts allowed and taken by a purchaser, but not the purchaser's customer.

(3) Unilateral or negotiated price adjustments that are not based on, or do not require, the provision of anything of material value on the part of the purchaser as consideration for the price adjustment.

(C)

(1) For example, an Ohio retailer purchases its products from the manufacturer and receives an invoice with a two-ten, net-thirty cash discount option. If the retailer pays the invoice within ten days of the invoice date, the retailer may deduct from its payment to the manufacturer two per cent of the invoice price. In such case, the manufacturer would be entitled to exclude such amount for such reduction in the invoice and could report the ninety-eight per cent of the invoiced price that it received from the retailer as a gross receipt. If the retailer fails to pay the invoice within ten days, the entire invoice amount is due within thirty days of the invoice date and the manufacturer would report the one hundred per cent of the invoiced price that it received from the retailer as taxable gross receipts.

(2)

(a) As another example, for promotional purposes and in order to boost its sales, a car manufacturer announces that it will provide an

incentive-based rebate of one thousand dollars per "Model A" car to all dealers that sell at least one hundred "Model A" cars in a given quarter. A car dealer located in Columbus, Ohio sells two hundred "Model A" cars in the first quarter ~~of 2006~~. In accordance with its incentive program, the manufacturer sends the dealer a check for two hundred thousand dollars. The two hundred thousand dollar incentive-based rebate does not have to be included in the dealer's gross receipts for purposes of the commercial activity tax and the manufacturer can exclude the rebate amount from its gross receipts.

(b) In contrast, assume a manufacturer provides an incentive-based rebate to the car dealer's customers and that the customer, whether ~~required~~obligated to or not, signs the rebate over to the car dealer. This incentive-based rebate ~~may not~~cannot be ~~deducted~~excluded by the manufacturer or the car dealer as a cash discount, as such rebate was paid to the purchaser's customer and not to the purchaser.

(3)

(a) As another example, a hardware store accepts a manufacturer's coupon for a one dollar discount of two boxes of "X Brand" nails. The hardware store remits the coupon to "X Brand" manufacturer and "X Brand" manufacturer reimburses the hardware store the one dollar discount taken, plus the eight-cent handling fee. When the hardware store receives the one dollar and eight cent rebate from the manufacturer, it ~~must~~needs to include that amount in its gross receipts for purposes of the commercial activity tax. "X Brand" manufacturer ~~may not~~cannot claim any exclusion from its gross receipts for such reimbursement because the reimbursement goes to the retailer that accepted a coupon from its customer and not a reimbursement directly to the retailer. It is also not a reimbursement to the purchaser based on timely payment or volume purchases.

(b) Assume, however, that the Ohio hardware store advertises a one dollar discount on two boxes of "X Brand" nails, and provides a store coupon for a one dollar discount on purchase of the two boxes of "X Brand" nails. The store is not reimbursed by "X Brand" manufacturer for any such coupons tendered. When the customer purchases the nails and is given a one dollar discount, the hardware store ~~is~~does not ~~required~~need to include that one dollar in its calculation of gross receipts for purposes of the commercial activity tax.

(4) As another example, for services rendered, assume a discount store receives a

monthly shelving allowance/fee from certain manufacturers for displaying the manufacturer's products in a prime location in the discount store. The discount store ~~is required~~will need to include this allowance/fee in its calculation of gross receipts for purposes of the commercial activity tax. In addition, the manufacturer ~~may not~~cannot exclude such allowance/fee from its calculation of gross receipts for purposes of the commercial activity tax.

- (5) As another example, a fast food franchise receives a flat fee or a variable fee based on the number of products sold (e.g., hamburgers sold) for providing local advertising. The franchise ~~may not~~cannot exclude this type of fee from its calculation of gross receipts because such reimbursement is for an expense and is not based on making timely payments or on volume purchases.
- (6) As another example, an unseasonably early winter causes a manufacturer to produce inventory in excess of the manufacturer's normal cold-weather demand. To unload the excess product, the manufacturer offers a twenty-five per cent off-invoice discount on all purchases for a limited time. The purchaser is not ~~required~~obligated by the manufacturer to offer a discount to its wholesale or retail customers, promote the manufacturer's product through advertisements, circulars, prominent placement, or otherwise, or provide any reciprocal promise or service to the manufacturer in order to receive the discount. The manufacturer may exclude the twenty-five per cent off-invoice discount from its calculation of gross receipts for purposes of the commercial activity tax.
- (7) As another example, a large bakery sells its artisan breads to businesses from the largest chain grocery stores to small, family-owned diners. To show its appreciation for its small-business customers, the bakery offers special pricing to any customer that does not operate as a franchise and has only one business location. The special price is reflected on each invoice as a discount from the regular list price and is tracked in a general ledger expense account titled "Small business preferred pricing discount." The bakery may exclude from its calculation of gross receipts the difference between the list price and special price as reflected in the expense account.