

# MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date May 29, 1975

To John T. Singer, Deputy Tax Assessor Dept. Bureau of Taxation

From Jerome S. Matus, Asst. Atty. Gen. Dept. Bureau of Taxation

Subject Taxable status of rebates by motor vehicle manufacturers

SYLLABUS:

REBATES BY MOTOR VEHICLE MANUFACTURERS TO PURCHASERS OF CERTAIN NEW VEHICLES ARE NOT DISCOUNTS ALLOWED BETWEEN THE DEALER AND THE PURCHASER, AND SALES TAX IS COMPUTED ON THE AMOUNT CHARGED BY THE DEALER LESS CREDIT FOR ANY "TRADE-IN" OF ANOTHER MOTOR VEHICLE.

FACTS:

In order to promote sales of motor vehicles, manufacturers are giving rebates to purchasers of certain new vehicles. Currently, these rebates amount to approximately \$200 to \$500. The rebate transaction is generally structured in either one of two ways:

- (1) Direct (cash) payment by the manufacturer to the purchaser; or
- (2) Assignment of the rebate by the purchaser to the dealer, in which case it is applied against the purchase price of the vehicle (usually in lieu of a "down-payment").

QUESTION AND ANSWER:

Should sales tax be imposed on the full amount charged by the dealer (less any trade-in of another motor vehicle) or should the rebate be considered as a discount and thus not subject to tax? Sales tax should be imposed on the full amount charged by the dealer (less any trade-in of another motor vehicle); such rebates are not discounts from the manufacturer.

REASONS:

Title 36 M.R.S.A. §1752(14) defines the term "sale price." For present purposes, the pertinent language of §1752(14) is the following:

"Sale price' means the total amount of . . . a retail sale, including . . . all receipts, cash, credits and property of any kind or nature, and any amount for which credit is allowed by the seller to the purchaser, without any deduction

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therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses whatsoever. Discounts allowed and taken on sales shall not be included."

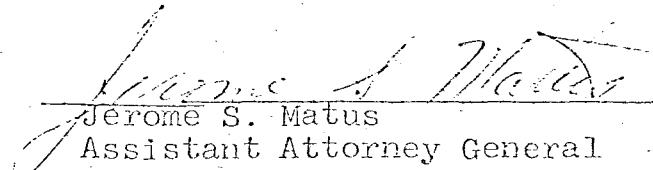
One important element of a "discount" is that it be a credit allowed by the seller.

The motor vehicle rebate situation is analogous to that presented by coupons received with a purchase which may be forwarded directly to the manufacturer for a rebate or "refund." The Director of Sales Tax of the Commonwealth of Massachusetts has indicated to the Bureau of Taxation that this in fact is their position, and that tax liability in both cases is based on the amount charged by the seller (dealer).

The position advocated for adoption by the Maine Bureau of Taxation is not unique. A memorandum from the Executive Director of the Federation of Tax Administrators dated January 31, 1975 indicates that at that time, while three states (Minnesota, Virginia, Wisconsin) recognize the rebate as constituting a reduction in price, three other states (Washington, Illinois, Michigan) have ruled or indicated they will rule that the rebate does not affect the sales price for purposes of the sales tax.

Subsequently on February 13, 1975 a supplement to the January 31, 1975 memorandum listed 5 states in addition to Washington, Illinois and Michigan that regarded a rebate as changing the sales price and computing the sales tax on the agreed price less the rebate. However, the February 13, 1975 supplement listed 15 states in addition to Minnesota, Virginia and Wisconsin that have ruled that rebates by manufacturers direct to purchasers of new automobiles do not affect the sales price of the vehicle for sales tax purposes and that no refunds of sales tax on the amount of the rebate will be made. (Copies of the January 31, 1975 memorandum and the February 13, 1975 supplement are attached hereto).

The assignment of the rebate by the purchaser to the dealer does not change the taxability of the transaction, the rebate is still from the manufacturer to the purchaser. No refund of the sales tax on the amount of the rebate should be allowed either with or without an assignment of a manufacturer's rebate on a new motor vehicle by the purchaser to a dealer.

  
Jerome S. Matus  
Assistant Attorney General