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R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-68. ~~[Premiums]~~**Donations**, Gifts, Rebates, and Coupons Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103.

~~[A. Donors that give away items of tangible personal property as premiums or otherwise are regarded as the users or consumers of those items and the sale to the donor is a taxable sale]. Exceptions to this treatment are items of tangible personal property donated to or provided for use by exempt organizations that would qualify for exemption under R865-19S-43 or R865-19S-54 if a sale of such items were made to them. An item given away as a sales incentive is exempt to the donor if the sale of that item would have been exempt. An example is prescribed medicine given away by a drug manufacturer.]~~

(1) The use of tangible personal property is subject to sales and use taxes unless:

(a) sales or use taxes were paid on the purchase of the tangible personal property;

(b) the tangible personal property is not subject to sales and use taxes; or

(c) an exemption applies to the sale or use of the tangible personal property.

(2) A donation or gift of tangible personal property is considered to be use of tangible personal property, unless:

(a) the donation or gift is made to an entity or organization that would qualify for an exemption for a religious or charitable institution under Section 59-12-104 and Section R865-19S-43, if the tangible personal property were sold to the entity or organization;

(b) the donated or gifted tangible personal property would have been exempt from sales and use taxes if sold; or

(c) the donation or gift is contingent on and guaranteed upon the completion of a taxable sale.

~~[B. When a retailer making a retail sale of tangible personal property that is subject to tax gives a premium together with the tangible personal property sold, the transaction is regarded as a sale of both articles to the purchaser, provided the delivery of the premium is certain and does not depend upon chance.]~~

~~[C. Where a retailer is engaged in selling tangible personal property that is not subject to tax and furnishes a premium with the property sold, the retailer is the consumer of the premium furnished.]~~

~~[D.](3)(a)~~ If a retailer accepts a coupon for part or total payment for a taxable product and is reimbursed by a manufacturer or another party, the total sales value, including the coupon amount, is subject to sales **or use** tax.

~~[E.](b)~~ A coupon for which no reimbursement is received is considered to be a discount and the taxable amount is the net amount paid by the customer after deducting the value of the coupon.

~~[F. If a retailer agrees to furnish a free item in conjunction with the sale of an item, the sales tax applies only to the net amount due. If sales tax is computed on both items and only the sales value of the free item is deducted from the bill, excess collection of sales tax results. The vendor is then required to follow the procedure outlined in R865-195-16 and remit any excess sales tax collected.]~~

~~[G. Any coupon with a fixed price limit must be deducted from the total bill and sales tax computed on the difference. For example, if a coupon is redeemed for two \$6 meals, but the value of the free meal is limited to \$5, the \$12 is rung up and the \$5 deducted, resulting in a taxable sale of \$7.]~~

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