

STATE OF NEW YORK

7974

IN SENATE

March 5, 2020

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to codifying existing guidance on the application of sales and use tax

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 3 of subdivision (b) of section 1101 of the tax
2 law, as amended by section 21 of part Y of chapter 63 of the laws of
3 2000, is amended to read as follows:

4 (3) Receipt. (i) The amount of the sale price of any property and the
5 charge for any service taxable under this article, including gas and gas
6 service and electricity and electric service of whatever nature, valued
7 in money, whether received in money or otherwise, including any amount
8 for which credit is allowed by the vendor to the purchaser, without any
9 deduction for expenses or early payment discounts and also including any
10 charges by the vendor to the purchaser for shipping or delivery, and,
11 with respect to gas and gas service and electricity and electric
12 service, any charges by the vendor for transportation, transmission or
13 distribution, regardless of whether such charges are separately stated
14 in the written contract, if any, or on the bill rendered to such
15 purchaser and regardless of whether such shipping or delivery or trans-
16 portation, transmission, or distribution is provided by such vendor or a
17 third party, but excluding any credit for tangible personal property
18 accepted in part payment and intended for resale. For special rules
19 governing computation of receipts, see section eleven hundred eleven of
20 this article.

21 (ii) Receipt shall include consideration received by the vendor from
22 third parties if:

23 (A) The vendor receives consideration from a party other than the
24 purchaser and the consideration is directly related to a price reduction
25 or discount on the sale;

26 (B) The vendor has an obligation to pass through to the purchaser the
27 price reduction or discount;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (C) The amount of the consideration attributable to the sale is fixed
2 and determinable by the vendor at the time of the sale of the item to
3 the purchaser; and

4 (D) One of the following criteria is met:

5 (I) the purchaser presents a coupon, certificate or other documenta-
6 tion to the vendor to claim a price reduction or discount where the
7 coupon, certificate or documentation is authorized, distributed or
8 granted by a third party with the understanding that the third party
9 shall reimburse any vendor to whom the coupon, certificate or documenta-
10 tion is presented;

11 (II) the purchaser presents identification as a member of a group or
12 organization entitled to a price reduction or discount; or

13 (III) the price reduction or discount is identified as a third party
14 price reduction or discount on the invoice received by the purchaser or
15 on a coupon, certificate or other documentation presented by the
16 purchaser.

17 (iii) Subclause (II) of clause (D) of subparagraph (ii) of this para-
18 graph shall not apply to employee discounts that are reimbursed by a
19 third party on sales of motor vehicles.

20 (iv) For the purposes of subclause (II) of clause (D) of subparagraph
21 (ii) of this paragraph, "identification as a member of a group or organ-
22 ization entitled to a price reduction or discount" shall not include the
23 presentation of a customer loyalty or related rewards program card.

24 § 2. This act shall take effect immediately and shall apply to all tax
25 periods for which (a) the statute of limitations for seeking a refund or
26 assessing additional tax are still open under the tax law or (b) for
27 which any claim could be made under the New York false claims act.