



# bulletin

Wisconsin Automobile & Truck Dealers Association • P.O. Box 5345 • Madison • WI • 53705 • (608) 251-5577

GARY D. WILLIAMS  
President  
ROBERT J FOULKS, CPA  
Vice President, Controller

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## SALES TAX AND EMPLOYEE PURCHASE PROGRAMS

In WATDA Bulletin #15, issued 08/27/01 your WATDA discussed the issue of how to measure the dealership's gross receipts for purposes of collecting sales tax when the vehicle is purchased in accordance with a manufacturer "employee" purchase program. In general the programs work as follows:

- The purchaser meets the criteria set by the manufacturer and selects a vehicle from the dealer's stock.
- The dealer sells the vehicle for a price set by the manufacturer.
- The price comes from either the dealer's invoice or a worksheet completed by the dealership.
- The manufacturer subsequently reimburses the dealership an amount specified in the program.

### *Gross Receipts*

Sales tax is imposed upon the gross receipts of retailers who sell, rent or lease tangible property. **Gross receipts** means the total amount of the sale whether received in money or otherwise. Gross receipts do not include cash and term discounts. In the State of Wisconsin Department of Revenue Publication 202, *Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs* it states:

"An amount received from a manufacturer after the sale of the vehicle by the manufacturer where the manufacturer specifies the amount and that the

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amount must be passed on to the customer is a manufacturer's rebate."

*Rebates Don't Change  
Gross Receipts*

The amount of a manufacturer's rebate does not reduce the gross receipts subject to sales tax; therefore the customer is still responsible for sales tax on the amount of the manufacturer's rebate.

*Manufacturer  
Reimbursement is  
Different From Wholesale  
Incentive*

The key elements here are that the dealership is receiving the money from the manufacturer and that the discount must be given to the customer. Amounts received by the dealer from the manufacturer that the dealership is not required to pass on to the customer are considered to be wholesale incentives and the dealer's gross receipts subject to the tax are reduced by the amount given to the customer. Cash discounts, dealer rebates and dealer coupons are sales price reductions, not reimbursed by the manufacturer or a third party consequently reduce the dealer's gross receipts subject to the tax.

*Your WATDA Challenged  
the Ruling But It Was  
Upheld*

(David and Carole Schenker vs.  
Wisconsin Department of Revenue,  
Cir. Ct., Dane County, WI, 98-CV-  
0928, 1998)

This definition of gross receipts has existed for quite some time. There was a challenge to the Tax Appeals Commission and review of that challenge to the Circuit Court that affirmed the Department of Revenue's position. WATDA and many dealers believed that there was a difference in the facts in the Schenker case and the types of programs now offered to manufacturers' employees, family members and suppliers. One dealer challenged the findings in his audit and recently the Tax Appeals Commission upheld the ruling in the Schenker case. At this time to further challenge this would involve appealing to the Circuit Court and eventually to the Appeals Court if we were not successful. This would be very costly litigation in light of the amount of tax involved. Dealerships should look at each program that involves reimbursement from a third party to determine whether the amount they will receive is considered to be gross receipts. When in doubt you should consult with your tax adviser or contact the Association office.

**Sales Tax on Employee Purchase Option Sales**

The key components in determining sales tax are the *Employee Purchase Price* and the *Manufacturer Reimbursement*. The employee purchase price is typically printed on the factory invoice. The manufacturer reimbursement may be found on the invoice but is not always there. If the

Key Components For Sales  
Tax Calculations is  
Manufacturer  
Reimbursement plus  
Employee Purchase Price  
Sample Deal

manufacturer reimbursement amount is not in the factory paperwork for that vehicle the dealer must determine the amount of manufacturer reimbursement prior to writing the purchase contract or accepting any down payment.

Sample scenario:

MSRP 2005 Zorch LTD           \$25,000.00  
Employee Purchase Price       22,500.00  
Manufacturer Reimbursement  1,500.00

The dealer should collect sales tax on the employee purchase price plus (cash price) any manufacturer reimbursement, in this case the two add up to \$24,000.00. This requires the dealer to back into the discount number, line c.

**Purchase Contract for Sample Deal**

The following example shows how to disclose this deal on the WATDA #1 Standard Motor Vehicle Purchase Contract.

Most Manufacturers  
Require the Cash Price to  
Reflect the Employee  
Purchase Price

Add Manufacturer  
Reimbursement in Other  
line d.

PRICE OF THE VEHICLE		
a. Dealer Retail Price .....	25,000	
b. Services Fee .....	N/A	
c. Discount .....	2,500	
1. Cash Price (a + b - c).....	1.	22,500.00
TAXABLE ITEMS PURCHASED WITH VEHICLE		
d. Other Taxable Amount Employee Disc. ....	1,500	
e. Service Contract .....	N/A	
2. Total of Taxable Items (d + e).....	2.	1,500.00
TRADE ALLOWANCE		
f. Owned Trade Allowance.....	N/A	
Leased trade-in allowance (Net lease equity calculation)		
(i) Gross Allowance .....	N/A	
(ii) Estimated Lease Payoff .....	N/A	
Payoff to: .....	N/A	
g. Net Lease Equity (I - ii).....	N/A	
3.. Trade Allowance (f + g) (if number is negative add in line h and 8) .....	3.	0.00

*Tax is Calculated on  
Employee Purchase Price  
Plus Manufacturer  
Reimbursement*

*Take Manufacturer  
Reimbursement Out On  
Rebate Line*

SALES TAX CALCULATION		
h.	Amount Subject to Sales Tax (1 + 2 - 3) _____	24,000
4.	5.6 % State, County and Regional Tax on h. ....	4. 1,344.00
NON-TAXABLE ITEMS PURCHASED WITH VEHICLE		
j.	Fees to Appear on the MV11 .....	113.50
k.	Warranty/Service Contract Transfer Fee _____	N/A
l.	Other .....	N/A
5.	Total of Taxable Items (d + e).....	5. 113.50
OWNED VEHICLE PAYOFF		
	Due to _____	
6.	Estimated Payoff Amount on Owned Trade-in .....	6. 0.00
CASH AND CASH EQUIVALENTS		
m.	Cash Down Payment on Order .....	N/A
n.	MANUFACTURER REBATES	
	<u>Manufacturer Employee Discount</u> <input type="checkbox"/> <input checked="" type="checkbox"/> _____	1,500
	_____ <input type="checkbox"/> <input type="checkbox"/> _____	
	_____ <input type="checkbox"/> <input type="checkbox"/> _____	
o.	Additional Cash Due (Date/Amount).....	UUUUUU N/A
7.	Total Cash and Rebates (m + n [if assigned] + o).....	7. 1,500.00
8.	Due on Delivery or Balance to Finance (1 + 2 - 3 + 4 + 5 + 6 - 7).....	8. 23957.50

Contract notes: All amounts in lines above the sales tax box (lines 1-3) are subject to sales tax.

### WATDA LAWS OF VEHICLE SALES OFFERED IN MARCH

For additional information regarding how to complete a Standard Motor Vehicle Purchase contract attend WATDA's Laws of Vehicle Sales seminars offered March 8 in Milwaukee and March 15 in Madison. For more information contact Wanda Fuller at (608) 251-5577 or wfuller@watda.org.

*Register Online  
www.watda.org*