INFORMATION BULLETIN #78

SALES TAX

DECEMBER 2009

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SUBJECT: Application of Indiana Sales Tax to Layaway Fees

EFFECTIVE: December 1, 2009

REFERENCES: IC 6-2.5-2-1**;** IC 6-2.5-4-1(b)**;** IC 6-2.5-1-5(b)(4); IC 6-2.5-1-1(a)

Sales tax does not apply to a retail transaction until tangible personal property has been transferred from one entity to another for consideration. In the case of a layaway sale, transfer of the property does not occur until the final payment is made. Because the initial and interim layaway payments are considered deposits and not retail sales, they are not subject to sales tax at the time they are made, and the retailer would not report the deposit at the time it is taken. Rather, retailers must report the entire layaway sale when the customer takes possession of the item(s) sold. When the sale is complete and the item has been transferred to the customer, the retailer must report the total amount received from the sale, excluding any layaway fee that has been separately stated. If the layaway fee is not separately stated, it is subject to sales tax and must be included in the total amount received from the sale. If, at any time, the layaway fee is forfeited due to the cancellation of the sale, the fee is not subject to sales tax whether or not it has been separately stated.

Example #1: A retailer sells a $500 bicycle to a customer on a layaway plan in August, accepting a deposit of $100 plus a $50 layaway fee that is separately stated on the retailer's business records. The customer pays the retailer $100 in September, $100 in October, and $100 in November. When the customer returns in December, she pays the balance due ($100) and takes possession of the bicycle. The retailer would report the sale as taking place in December with a taxable selling price of $500.

Example #2: A retailer sells a $500 bicycle to a customer on a layaway plan in August, accepting a deposit of $100 plus a $50 layaway fee that is NOT separately stated on the retailer's business records. The customer pays the retailer $100 in September, $100 in October, and $100 in November. When the customer returns in December, she pays the balance due ($100) and takes possession of the bicycle. The retailer would report the sale as taking place in December with a taxable selling price of $550.

Example #3: A retailer sells a $500 bicycle to a customer on a layaway plan in August, accepting a deposit of $100 plus a $50 layaway fee. In September, the transaction is cancelled and the retailer refunds $100 to the customer and keeps the $50 layaway fee. No sales tax is due on the transaction.

John Eckart

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Commissioner