

Sales & Use Tax for Retailers

Alison Bradley, Tax Auditor Agent

Laura M. Stanley, Esq., Division Counsel

Agenda

- Sales Tax Holiday
- Vendor Registration and Responsibilities
- Records Maintenance
- Exemptions and Exemption Certificates
- Special Considerations
- Use Tax for Retailers
- Collection of Tax by Remote Sellers

Sales Tax Holiday

Sales Tax Holiday

- Begins: Friday, August 7, 2015
- Ends: Sunday, August 9, 2015
- Participation by retailers is **not** voluntary.
 - A retailer SHALL NOT collect sales tax on exempt items during the sales tax holiday period.

August 2015						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Sales Tax Holiday

- The following items are exempted during the sales tax holiday:
 - Clothing – Priced at \$75 or less
 - School supplies – Priced at \$20 or less
 - School instructional materials – Priced at \$20 or less



Sales Tax Holiday

- Items used in a trade or business are NOT exempt under the sales tax holiday.



- If a vendor does not charge sales tax on items for use in a trade or business, consumer must pay the use tax on the items.

Definitions – Clothing

- “Clothing” is defined as all human wearing apparel suitable for general use.
 - Examples:
 - Shirts, blouses, and sweaters
 - Uniforms (athletic and non-athletic)

Definitions – Clothing

- Items that are not considered clothing and are not exempt during the sales tax holiday include
 - Items purchased for use in a trade or business
 - Accessories or equipment
 - E.g. , briefcases, cosmetics, and handbags
 - Protective equipment
 - E.g. , face shields, helmets, and protective gloves
 - Sports or recreational equipment
 - E.g., ballet shoes, cleated or spiked athletic shoes, and baseball gloves
 - Sewing equipment and supplies
 - Belt buckles sold separately
 - Costume masks sold separately
 - Patches and emblems sold separately

Definitions – Clothing



- **Test Your Knowledge:**
 1. Does the \$75 exemption apply to the first \$75 of an item of clothing?
 2. What if a retailer sells a pair of shoes for \$125, can the retailer split the pair of shoes to fall below the threshold?
 3. Julie purchased a uniform for her school-aged child on August 7, 2015, consisting of a \$25 shirt, a \$30 pair of pants, and a \$25 pair of shoes. The invoice came to \$80 and sales tax was not charged by the vendor. Is this correct?

Definitions – Clothing

- Answers:
 1. No. The exemption applies to items selling for \$75 or less. If an item of clothing sells for more than \$75, tax is due on the entire selling price.
 2. No. A retailer may not split items that are normally sold together in order to fall under the sales price threshold.
 3. Yes. Each item of clothing is less than \$75 and none of the items are used in a trade or business.



Definitions – School Supplies

“School supplies” means items commonly used by a student in a course of study. School supplies only include the following:

- Binders
- Book bags
- Calculators
- Cellophane tape
- Blackboard chalk
- Compasses
- Composition books
- Crayons
- Erasers
- Folders
- Expandable pocket (plastic and manila)
- Glue
- Paste/ paste sticks
- Highlighters
- Index cards
- Index card boxes
- Legal pads
- Lunch boxes
- Markers
- Notebooks
- Paper
- Manila paper
- Colored paper
- Poster board
- Construction paper
- Pencil boxes (school supply boxes)
- Pencil sharpeners
- Pencils
- Pens
- Protractors
- Rulers
- Scissors
- Writing tablets

Definitions – School Supplies



- **Test Your Knowledge:**
 - On August 8, 2015, a customer purchased legal pads, pencils, and pens for their service-based business that they run out of their home. The vendor did not charge sales tax at the time the items were purchased. Does the customer owe tax on these items?

Definitions – School Supplies

- **Answer:**
 - Yes. The items were purchased for use in a trade or business. If a vendor does not charge sales tax on items for use in a trade or business, the consumer must pay use tax on the items. Options for paying the amount:
 - The customer may report and pay the tax on the regularly filed use tax return
 - If the consumer does not have a use tax account, may
 - Report and pay the tax on his or her personal income tax return or
 - Form VP-USE, if this is a one-time transaction.



Definitions – School Instructional Materials

- “School instructional materials” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. School instructional material includes only the following items:
 - Reference books
 - Reference maps and globes
 - Textbooks
 - Workbooks

Definitions – School Instructional Materials



- **Test Your Knowledge:**
 - As a promotion, a vendor offers a buy one textbook and get the workbook free. The textbook costs \$35. Can the vendor average the price of the textbook and the workbook and therefore exempt this sale for purposes of the sales tax holiday?

Definitions – School Instructional Materials

- **Answer:**
 - No, the total price of the items advertised as “buy one, get one free” or “buy one for a reduced price” cannot be averaged to qualify both items for the exemption. The exemption depends on the actual price paid for each item.



Retailer Reporting Responsibilities

- Sales of exempt sales tax holiday items must be reported on Ohio's Sales and Use Tax Return (form UST-1)
- Report all sales for the period, including exempt sales, on Line 1
- Enter qualifying exempt sales tax holiday sales, along with any other exempt sales for the period, on Line 2.
- Subtract Line 2 from Line 1 to get taxable sales, and enter on Line 3.



Exchanges and Refunds During the Sales Tax Holiday

- TIMING IS EVERYTHING -
 - A customer buys an eligible item during the sales tax holiday and later exchanges it for the same item in a different size or color.
 - Sales tax is not due, even if the exchange is made after the end of the sale tax holiday.
 - A customer buys an eligible item during the sales tax holiday and returns the item after the tax holiday period for a credit on the purchase of a different item.
 - Sales tax is due on the newly purchased item.
 - A customer buys an eligible item before the sales tax holiday, but returns the item during the sales tax holiday period and receives credit on the purchase of a different item of eligible property.
 - No sales tax is due on that sale of the new item if the retailer gives credit for the full purchase price.

Coupons and the Sales Tax Holiday

- A retailer that offers a discount to reduce the price of an eligible item to \$20 (applies to school supplies and school instructional materials) or less or \$75 (applies to clothing) or less, the item will qualify for the exemption.
- A manufacturer's coupon (third-party reimbursement) does not reduce the item's sale price for purposes of determining whether the item is eligible for the exemption.

Coupons and the Sales Tax Holiday



- **Test Your Knowledge:**

1. As a promotion, a vendor has a loyalty program where the customer may earn a defined amount off of a future purchase – in this case a store coupon worth \$10. A customer buys an \$80 item of clothing and uses the \$10 to reduce the price to \$70. Does this item of clothing meet the exemption amount?
2. A customer purchases a book bag for \$22. The customer provides a manufacturer's coupon for \$5 off the book bag. Does this item meet the exemption amount?

Coupons and the Sales Tax Holiday

- **Answer:**
 1. Yes. A store issued discount or coupon will reduce the price. This applies to discounts even if the retailer's coupon or loyalty card is required to secure the discount.
 2. No. Manufacturers' coupons that are redeemable by any vendor and for which the vendor will be reimbursed by the manufacturer do not reduce the tax base.



Sales Tax Holiday

- More information and FAQs available at www.tax.ohio.gov

News



NEW!!!! Sales Tax Holiday
August 7, 2015 through August 9, 2015

Tax 'Tips' Webinar July 15

Average Wholesale Prices - PAT

NEW!!!! Sales Tax Holiday

Commercial Activity Tax

Online Registration Reset Needed

Small Business Tax Cut

Vendor Registration and Responsibilities

Types of Vendor Licenses

- Any person or business making retail sales of tangible personal property or taxable services **must** register for the sales tax by obtaining a vendor's license.
 - Regular Vendor's License
 - Transient Vendor's License



Regular Vendor's License (ST-1)

- Generally, issued by the County Auditor to vendors with a fixed place of business in Ohio.
 - Vendors of TPP and certain services must have one regular vendor's license for each fixed sales location.
 - Application Fee \$25
 - This license must be displayed at a vendor's fixed location.
- May also obtain a regular vendor's license ***immediately*** on the Ohio Business Gateway

Transient Vendor's License (ST-1T)

- Issued by the Department of Taxation
- Needed by:
 - Vendors who transport stocks of goods to temporary places of business or exhibits in a county where they have no fixed place of business.
 - Service providers when the taxable event occurs at a customer's location.
 - Vendors that lease titled motor vehicles, titled watercraft, or titled outboard motors.
- Application Fee \$25
- **Examples:**
 - Exhibitor at a trade show
 - Exterminator



Transient Vendor's License (ST-1T)



- Vending machines require a transient vendor's license. R.C. 5739.17(D)
- Consider a predetermined authority R.C. 5739.05(B)
 - Cannot differentiate between taxable and not taxable food sales;
 - Cannot create a record of individual sales; or
 - Cannot separately collect tax on taxable sales.

Types of Vendor's License

- Other types of accounts are issued by the state and have no fee. They include:
 - **Direct Pay Permit Holder**
 - Manufacturers, construction contractors, others
 - Taxability cannot be determined at the time of purchase.
 - Large number of transactions every month
 - Make tax payments directly to the state.

Types of Vendor's License

- Other types of accounts include:
 - **Consumers Use Tax Account**
 - Purchasers who have not paid the tax to a Vendor or Seller (in most cases for out-of-state transactions)
 - Make payments directly to the state.
 - **Seller**
 - Retailer located outside of Ohio who makes retail sales of property or services for storage, use, or consumption in Ohio.

Cumulative Account

- A vendor may report two or more regular county vendor licenses on one return.
- Apply through the Department of Taxation
 - Ohio Business Gateway
 - Form ST 26
- Report total Ohio sales and tax activity for all Ohio locations
- County-by-county breakdown on a supporting schedule.

Duty to Collect Sales Tax

- Vendors **must** charge and collect the sales tax at the full and exact rate.
- The tax applies at the time the sale is made.
- Vendors must charge the tax on every sale *unless* the customer provides a fully completed exemption certificate or the sale is exempt by law.
- Responsible parties can be held personally responsible for sales tax that was not collected.



Duty to Collect Sales Tax

- Presumed taxable unless an exemption applies (exemptions will be covered in detail later).
- Sourcing

Type of Sale	Sourcing (R.C. 5739.033)
Sales of TPP	Generally, paid at the rate in effect in the county where the sale is made
Sales on titled motor vehicles, off-highway motorcycles, all-purpose vehicles, personal watercraft, titled watercraft and titled outboard motors	Paid to the county Clerk of Courts at the rate in effect in the purchaser's county of residence.
Telecommunication services	Taxed at the rate in effect in the county of the billable telephone
Most other taxable services	Taxed at the county rate where the service is received.

- “The Finder”

Duty to Collect Sales Tax

- The Finder
 - Available
 - OTD Website
(http://www.tax.ohio.gov/online_services/thefinder.aspx)
 - Mobile Application
(<http://www.tax.ohio.gov/MobileApplications.aspx>)



Duty to Collect Sales Tax

- **Test Your Knowledge:**
 - A vendor makes a sale on credit in January, but the money is not received until February. When is the tax paid to the state?



Duty to Collect Sales Tax

- **Answer:**
 - The tax must be reported and paid with January's return. Tax must be paid, even if the price is not collected from the customer.



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Duty to File and Remit

- Required to be filed electronically.
 - Ohio Business Gateway vs. Telefile (See next slide)
- Payments will be accepted by:
 - Credit card
 - ACH Debit
 - ACH Credit
 - Paper Check

Duty to File and Remit

- Key universal sales tax form (UST-1) or universal use tax form (UUT-1) in its entirety via Gateway application.
- File Upload (Express Data Entry) - Upload county sales tax data or use tax from a file, then key remainder of return.
- Full UST-1 Upload the entire UST-1 data or UUT-1 from a file.
- Listen for prompts, then submit data using a touch-tone phone keypad.

just for sales
TeleFile
(800)697-0440



Due Dates

- Returns are due even if no sales are made and/or tax is due.
- **Monthly** - On or the 23rd of the month
 - Reporting period of the prior month
- **Semi-annual** -On Jan. 23 and July 23
 - Previous six-month filing periods



Accurate Filing



- Total Sales on Line 1
- Exempt Sales on Line 2
- Taxable Sales on Line 3
- Vendor discount is on Line 7 (.75 of 1% of tax liability for timely returns)
- **Penalties (Failure to File/Failure to Pay)**
 - An additional charge up to \$50 or 10 percent of the tax required to be paid
 - For not paying collected taxes, or not filing a tax return, a penalty up to 50 percent of the tax due may be assessed.

Bad Debts and Returned Merchandise

- **Bad Debts**

- Must be uncollected for at least 6 months
- Written off for Federal income tax purposes
- Should be deducted in the filing period during which the bad debt was written off

- **Returns**

- *Before the Return is Filed* – Do not report the sale on your tax return
- *After the Return is Filed* –
 - May file a refund
 - Adjust the current tax return
- Tax liability may not fall below \$0.
 - In this case, please file a refund claim.

Revocation and Cancelation of a Vendor's License

- **SUSPENSION:**

- Failing to file sales tax returns when due or you fail to pay the tax due
- No retail sales may be made until the license is reinstated
- **Reinstatement**
 - File complete and correct returns for all periods
 - Pay the full amount of tax, penalties, and other charges due

- **REVOCAION:**

- Not engaged in making taxable retail sales
- Tax Commissioner discretion

Habitual Offenders Program (HOP)

- All accounts on HOP are monitored to ensure timely filing and payment of Sales tax
- The taxpayer is “alerted” they have been put on HOP by written notification (“Alert” Letter)
- **Intent to Suspend Letter** - If the taxpayer then fails to file or pay timely, they will have 10 days to file and pay any noncertified amounts owed
- Failing to file and pay within the **10 days** may result in a suspension of the vendor’s license through Final Determination

 **PUBLIC NOTICE**
By order of the Tax Commissioner,
Vendor's License _____ is under suspension.
_____ is prohibited from making retail sales at
_____ on or after _____.

No person other than the Tax Commissioner, a Tax Agent or a Department Employee shall remove, cover or deface this posted notice, and such removal violates Section 5739.30(B)(2) of the Ohio Revised Code.

Tax Commissioner

Revocation and Cancellation of a Vendor's License

- Closing business?
- Final return must be filed and all taxes must be paid within **15 days** of the final sale.
- Indicate the last day of business.

Transfer of a Vendor's License

- **Moving**
 - *Same County* - Transfer is available
 - Application to the Department of Taxation
 - Form ST-3TL or contact your local County Auditor' Office
 - No Fee
 - *Different County* = Transfer is not available
- **Liquor Permit Issues**
 - Liquor permit must be transferred first
 - Contact the Division of Liquor Control
 - **Must** have the identical name and identical address.
- Any change in **ownership** requires a new license.
- A change in your **mailing address** does not require a new license.

Transfer of a Vendor's License

- **Test Your Knowledge:**
 - A vendor is moving to a larger location across town. The name of the business will remain the same and there is no change in ownership structure. May the regular vendor's license be transferred?



Transfer of a Vendor's License

- **Answer:**
- Yes. A regular vendor's license may be transferred from one existing business location to another when you move an existing business to a new location within the same county.
 - A vendor must submit a transfer application to the Department of Taxation requesting transfer of the license to the new location.
 - There is NO FEE for this type of transfer.



Records Maintenance

What Records Must a Retailer Keep?

- Each vendor must maintain complete, accurate, and adequate primary and secondary records.
- Retailer must maintain records for four (4) years



Primary vs. Secondary Records

R.C. 5739.11, Ohio Admin. Code 5703-9-02

- Primary records
 - Must distinguish between taxable and nontaxable items.
 - Tax must be separately stated.
 - Primary records must be accumulated and recorded in the secondary records.
- Examples:
 - Purchase invoices
 - Bills of lading
 - Sales invoices
 - Guest checks
 - Exemption certificates,
 - Tax payment receipts
 - Cash register receipts
- Secondary Records must be supported by complete primary records.
- Examples:
 - Bank Deposit Receipts
 - Day books
 - Journals
 - Any other records in which accumulated data is recorded

Exemptions and Exemption Certificates

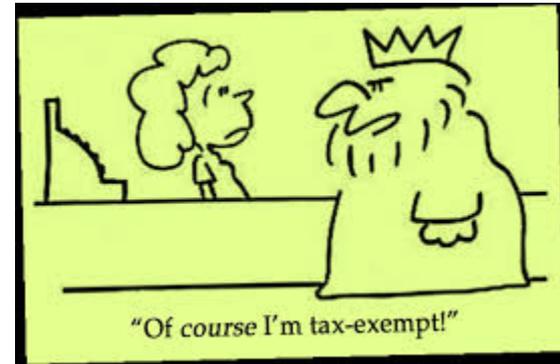
Exemptions & Exemption Certificates

- Exceptions and Exemptions found in R.C. 5739.01 and 5739.02
 - 113 exemptions – most found in R.C. 5739.02(B)
 - Food for human consumption off-premises where sold is exempt under the Ohio Constitution
 - Taxpayer must establish it is entitled to the exemption or exception



Exemptions & Exemption Certificates

- Ohio Admin. Code 5703-09-03
 - “Exception” refers to transactions excluded from the definition of retail sale by division (E) of section 5739.01 of the Revised Code.
 - “Exemption” refers to retail sales not subject to the tax pursuant to division (B) of section 5739.02 of the Revised Code.
 - All sales of tangible goods are presumed taxable until contrary is established



Exemptions & Exemption Certificates

- Common exemptions
 - Food for human consumption off premises where sold
 - Sales to state and political subdivisions
 - Sales to churches and exempt 501(c)(3) organizations
 - Purchase for resale



Exemptions & Exemption Certificates

- R.C. 5739.03
 - If purchaser claims exemption under 5739.01(E)(resale) or R.C. 5739.02, they must provide fully completed exemption certificate
 - Exemption certificate may be provided electronically or in hard copy
 - Vendor that receives fully completed exemption certificate within ninety (90) days of the sale is relieved of tax liability for the transaction
 - Vendor must retain fully completed exemption certificate in it's files



Exemptions & Exemption Certificates

- Fully completed exemption certificate:
 - Purchaser's name and business address
 - Tax Identification for the purchaser issued by this state (example Vendor's License or Consumer Use Tax account)
 - Purchaser's type of business or organization
 - Reason for exemption
 - Signature of purchaser (if hard copy)
- If missing any elements, the exemption certificate is **INVALID** (See Ohio Admin. Code 5703-09-03)

Exemptions & Exemption Certificates

- If not fully completed and audited?
 - Allowed one hundred and twenty (120) days to obtain fully completed exemption certificate accepted in good faith
- OR
- Letter of usage from the customer

Exemptions & Exemption Certificates

- “Good faith” means:
 - Exemption was statutorily available on the date of sale

OR

- Could be applicable to the item being purchased

AND

- Is reasonable for the purchaser’s type of business



Exemptions & Exemption Certificates



- **Test Your Knowledge:**
 - Farmer Joe came into the retailer’s location, purchased 5 packages of baler twine, and provided a fully completed exemption certificate. On the certificate, he listed “primarily used in agriculture/farming” as the reason for exemption. Should the vendor charge sales tax?

Exemptions & Exemption Certificates

- **Answer:**
 - Sales tax should not be charged. A vendor may accept this exemption certificate. A “primary use” exemption is available in R.C. 5739.02(B)(17) for any TPP or enumerated taxable service used or consumed primarily in farming, agriculture, horticulture, or floriculture.



Direct Payment Permits

- Ohio Admin. Code 5703-09-03
 - Exemption certificates need not be obtained when the sale is made to a Direct Payment Permit holder

Direct Payment Permits

- What is a direct payment permit?
 - A direct payment permit holder is a taxpayer whom the Tax Commissioner has authorized to make direct payment of sales and use tax to the Ohio Department of Taxation rather than paying the tax to the seller at the time of purchase.
 - A listing of all direct payment permit holders is posted on Taxations Website (www.tax.ohio.gov)

Direct Payment Permits

- Who is eligible?
 - Available to any business which purchases goods or services under circumstances normally making it difficult at the time of the purchase to determine if the goods or services are exempt from taxation.
 - Example: construction contractors, manufacturers

Direct Payment Permits

- Who is eligible?
 - Available to any business whose number of purchase transactions of goods or services exceeds five thousand annually and whose Ohio state sales and use tax paid on these purchases exceeds \$250,000 annually.



Direct Payment Permits

- What are a seller's responsibilities?
 - When a business informs the vendor that the business has direct payment authority, seller should:
 - Obtain copy of direct payment authority
 - OR
 - Name and address of permit holder, permit number (eight digits beginning in 98), and date of direct pay issuance

Direct Payment Permits

- What are a vendor's responsibilities?
 - If required documentation is provided, vendor should not collect state or local sales and use tax from the customer
 - Seller must maintain adequate records detailing amount involved and identity of the permit holder
 - Seller is not required to confirm with Department that the customer possesses direct payment authority



Special Considerations

Special Considerations

- Discounts, Coupons, Rebates, Reward and Loyalty Programs
- Trade-In Allowance
- Delivery & Installation Charges
- Warranties, Maintenance Agreements and Service Contracts

Discounts, Coupons, Rebates, Reward and Loyalty Programs

- R.C. 5739.01(H)(1)(a)
 - Price includes the following:
 - Vendor's cost of property sold
 - Cost of materials, labor, interest, losses, transportation to vendor, taxes imposed on vendor, and any other expense of vendor
 - Charges by vendor for services necessary to complete the sale

Discounts, Coupons, Rebates, Reward and Loyalty Programs

- R.C. 5739.01(H)(1)(c)
 - “Price” does not include the following:
 - Discounts, including cash, term, or coupons that are not reimbursed by a third party



Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Coupons:**

- When issued by the retailer, price for tax purposes is selling price **after** application of coupon
- When distributed by a third party who reimburses retailer/vendor for value of coupon, price for tax purposes is selling price **before** application of coupon

» **Example:** manufacturer coupons



Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Coupons:**

- **Example:** Manufacturer coupon used for \$10.00 off purchase of an item

– Selling price of item:	\$55.00	
– Sales tax at 6.5%:	\$ 3.58	
– Subtotal:		\$58.58
– Less coupon:	\$10.00	
– Customer pays:	\$48.58	

Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Coupons:**

- **Example:** Coupon issued by the retail establishment is used for \$10.00 off purchase of any item in the store:

– Selling price of item:	\$55.00
– Less coupon:	-\$10.00
– Subtotal	\$45.00
– Sales tax at 6.5%:	\$2.93
– Customer pays:	\$47.93

Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Gift Certificates:**
 - No sales tax charged at time of purchase
 - Treated same as a cash purchase when customer redeems gift certificate
 - Price for tax purposes is selling price before application of gift certificate



Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Discounts:**

- Retailer runs special selling item at a lower/discounted price

- Price for tax purposes is discounted/sale price

- **Example:** Regular price of item is \$50.00, discounted/on sale for \$40.00

- Price for tax purposes is \$40.00



Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Cash / Term Discounts:**

- Tax base is reduced when the discount is allowed at the time of sale.

- **Example:** Vendor offers a 2% net 10 discount on an invoice. Purchase price on the invoice is \$250.00 and it is paid within 10 days.

- Taxable base = \$250.00 – 2.0% (\$5.00) = \$245.00

Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Manufacturer Rebates:**
 - Money that will be paid to the customer by the manufacturer after sale is complete does not reduce tax base

Discounts, Coupons, Rebates, Reward and Loyalty Programs

- **Loyalty & Reward Programs:**
 - Reward loyal buying behavior through points/rewards
 - Example: Hotel rewards, frequent flyer miles, grocery rewards
 - If reward is offered through third party(example coupon issued by credit card company in charge of rewards card), price for tax purposes is selling price
 - If reward is offered through vendor, price for tax purposes is selling price less reward.

Trade-In Allowance

- Sales of motor vehicles, all purpose vehicles, off highway motorcycles
 - Tax base is reduced on sale of a new vehicle by the amount of the trade in
 - Tax base is not reduced on the sale of a used vehicle when trade in is allowed
 - Does not include sale of manufactured homes or mobile homes

Trade-In Allowance

- Sales of watercraft and outboard motors
 - Tax base is reduced by price of the trade in for new and used watercraft and outboard motors when licensed dealer accepts a watercraft, watercraft and trailer and/or outboard motor in trade
 - Tax base cannot be reduced when only a trailer is accepted in trade

Trade-In Allowance

- For all other sales, a trade in allowance does not reduce the tax base

Delivery Charges

- R.C. 5739.01(H)(1)(a)(iv)
 - “Price includes “delivery charges”
 - “Delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.



Delivery Charges

- Ohio Admin. Code 5703-09-52(A)(2)
 - Charges paid by a customer to a delivery company, and not imposed or collected by the vendor or seller of the delivered property or service are not subject to sales and use tax
 - **Example:** charges billed separately from UPS or FEDEX

Delivery Charges

- Ohio Admin. Code 5703-09-52(B)
 - When charges in a shipment include purchases of both taxable and exempt items, the vendor or seller should allocate the delivery charge by using either of the following ratios:
 - The ratio of the total sales prices of all taxable property in the shipment to the total sales prices of all property in the shipment, or
 - The ratio of the total weight of the taxable property in the shipment to the total weight of all property in the shipment.

Delivery Charges

- Ohio Admin. Code 5703-09-52(C)
 - The vendor must tax the portion of the delivery charge allocated to the taxable property but not the portion allocated to the exempt property.
 - If vendor does not allocate the delivery charge, and any portion of the transaction is taxable, the vendor must charge tax on the entire delivery charge

Installation Charges

- “Price” includes installation charges per R.C. 5739.01(H)(1)(a)(v)
- R.C. 5739.01(B)(3)(b) made the installation of tangible personal property a sale subject to tax

Warranties, Maintenance Agreements and Service Contracts

- R.C. 5739.01(B)(7)
 - All transactions in which a warranty or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is taxable
 - Includes contracts for both preventative maintenance , and extended warranty contracts
 - Warranties, service contracts, and maintenance agreements covering exempt purchases would also be exempt



Special Considerations



- **Test Your Knowledge:**
 - Alexis clipped a manufacturer coupon for toothpaste from her Sunday paper and used it on her next trip to Big Bird Grocery. The toothpaste is regularly \$4.99, but on sale for \$3.99. Her coupon was for \$1.50 off. What is the price for tax purposes?

Special Considerations

- **Answer:**
 - The price for tax purposes is \$3.99. The manufacturer coupon would not reduce the tax base of the item because it is distributed and reimbursed by a third party. The \$1.00 discount on the item does reduce the tax base because it was discounted by the retailer.



Special Considerations



- **Test Your Knowledge:**
 - A vendor offers customers a 2% discount if invoices are paid within ten (10) days. Their customer receives an invoice totaling \$80.00 before tax, and pays the invoice within ten days. Tax is owed on all purchases on the invoice. What is the total for tax purposes with the vendor discount?

Special Considerations

- **Answer:**
 - The total for tax purposes is \$78.40. The vendor discount reduces the taxable base because it is issued by the retailer.
 - $\$80.00 - \$1.60(\$80.00 * .02) = \78.40



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Special Considerations



- **Test Your Knowledge:**
 - The Jackson family dined at their favorite local restaurant. The total purchase before tax came to \$75.00. They had a gift certificate that was used to pay part of the bill. After applying the gift certificate the bill amounted to \$25.00 plus tax, which was paid with credit card. What is the total amount for tax purposes?

Special Considerations

- **Answer:**
 - The price for tax purposes is \$75.00. Gift cards/certificates are treated the same as a cash purchase when redeemed. The price for tax purposes is selling price before application of gift card/certificate.



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Special Considerations



- **Test Your Knowledge:**
 - A local home and garden store sells its customer a riding lawn mower for \$2,000 and agrees to deliver it to its customer's home for \$50.00. The delivery charge is separately stated on the invoice. What is the price of the sale that should be used to calculate the tax due?

Special Considerations

- **Answer:**
 - The full price of the sale is the selling price of the riding lawn mower (\$2,000) plus the \$50.00 delivery charge. Assuming that the customer does not have a claim for exemption, the vendor must charge and collect tax on the full price of the sale that includes the \$50.00 delivery charge.



Special Considerations



- **Test Your Knowledge:**
 - Benji went to the local car dealership to trade in his old truck for a brand new truck. The list price of the new truck was \$36,000. The manufacturer offered a \$4,000 instant rebate, and the dealer offered \$2,000 off in dealer incentives. The dealer gave him \$12,000 for his trade in. What is the price of the sale that should be used to calculate the tax due?

Special Considerations

- **Answer:**
 - Benji paid the dealer \$18,000 before tax. However, the price for tax purposes would be \$22,000 (\$36,000 - \$2,000 dealer incentive - \$12,000 trade in value). The manufacturer rebate would not lower the tax base as it is distributed and reimbursed by a third party.



Consumer Use Tax Basics For Retailers

What is Taxable?

- R.C. 5739.01(B)
 - “Sale” and “selling” include all transactions by which title or possession of tangible personal property is, or is to be transferred in Ohio
 - All storage, use or consumption of tangible personal property in Ohio
 - All services listed in R.C. 5739.01(B)(2)-(11)

What is Taxable?

- Typical services listed in R.C. 5739.01(B)(2)-(11)
 - Repair of tangible personal property
 - Installation of tangible personal property
 - Washing, cleaning, waxing, polishing, or painting a motor vehicle
 - Laundry and dry cleaning services
 - Automatic data processing, computer services, electronic information services
 - Telecommunications service
 - Landscaping and lawn care
 - Private investigation / security services
 - Employment services

What is Taxable?

- Examples of taxable purchases for most business:
 - Office equipment
 - Computers, monitors, printers, scanners, staplers, copiers, telephone systems, application software
 - Office supplies
 - Paper, tape, CDs, business cards, calendars, toner
 - Cleaning supplies



What is Taxable?

- Examples of taxable purchases for most business:
 - Mops, brooms, cleaners, paper towels, gloves
 - Furniture—desks, chairs, tables, lights, televisions
 - Business fixtures (R.C. 5701.03(B))
 - Signage
 - Data cabling
 - Special purpose lighting
 - Specialized HVAC

What is Taxable?

- Examples of taxable purchases made by retailers:

- Grocery Store:

- Shelves, coolers, freezers, display cases

- Convenience Store:

- Shelves, checkout counters, certain canopies , gas pumps/tanks

- Department Store

- Shelves, checkout counters, specialized lighting, display fixtures, hangers



What is Exempt?

- Exempt purchases made by retailers include:
 - Inventory purchases for resale
 - Printed material that prices and describes
 - Equipment and supplies used to prepare and preserve food for human consumption
 - For food service operators under R.C. 3717.43, equipment and supplies used to:
 - (a) **To prepare** food for human consumption for sale;
 - (b) **To preserve** food that has been or will be prepared for human consumption for sale;
 - (c) **To clean** tangible personal property used to prepare or serve food for human consumption for sale.

What is Exempt?

- Examples of exempt purchases made by retailers:
 - Grocery Store:
 - Inventory purchased for resale
 - Meat cutters
 - Convenience Store:
 - Inventory purchased for resale
 - Hot dog cookers, soda machines
 - Dining room seating/table tops (if restaurant located inside store)
 - Department Store
 - Inventory purchased for resale
 - Catalogs/printed material that prices and describes

What if seller does not charge tax?

- Seller is located out of state/or does not charge tax:
 - Use Tax is due on taxable items if sales tax is not charged by the vendor
 - Accrued and filed on Consumer Use Tax or Direct Pay account
 - Individuals may pay on their personal income tax return
 - VP-USE form

Collection of Tax by Remote Sellers

Interstate Commerce and the Quill Corp. v. North Dakota Decision

- Remote sellers can only be subjected to a state's taxing jurisdiction if the company has nexus, or a certain amount of physical presence in the state.
- The 1992 *Quill* Court instructed that the issue of Interstate Commerce is within the providence of Congress and that the Court would no longer entertain these issues.
- Some states have attempted to require remote sellers who perform certain activities in connection with the state to collect and remit sales tax.

Streamlined Sales and Use Tax Agreement



- Cooperative effort of many state and local governments and the business community to simplify sales and use tax collection and administration by retailers and states.
- Encourages “remote sellers” selling over the Internet and by mail order to collect and remit sales tax
- Levels the playing field so that local “brick-and-mortar” stores and remote sellers operate under the same rules

Streamlined Sales and Use Tax Agreement

- Sellers can register directly with Streamlined.
 - Can use a certified sales tax administration software
 - Receive one identification number to use to file and pay taxes for the registered states.
 - Centralized registration with all member states and those associate state selected by the seller.
 - Must collect and remit sales and use taxes for all taxable sales in the member states and selected associate member states



Current Initiatives at the Federal Level

- Marketplace Fairness Act of 2015 (S. 698)
 - Introduced on March 10, 2015 (Sponsor: Senator Enzi)
 - Major Characteristics
 - A member of the Streamlined Sales and Use Tax Agreement (SSUTA) may require all sellers (not including small-sellers) to collect and remit sales and use taxes.
 - Prohibits states from beginning to require all sellers to collect and remit for one year after the act and not during October 1 – December 31.
 - If the bill passes on November 15, 2015, the first date a state can require a remote seller to collect and remit sales tax is January 1, 2017.
 - If not a member of the SSUTA, certain minimum qualifications must be met.
 - Defines "remote sale"

Current Initiatives at the Federal Level

- Remote Transactions Parity Act of 2015 (H.R. 2775)
 - Introduced June 15, 2015 (Sponsor: Representative Chaffetz)
 - Major Characteristics
 - Provides similar authority
 - Audit protections for small businesses
 - Phase in for small businesses
 - Requires states to give free access to the software needed to collect and remit the taxes due.
 - States also pay for maintaining the software.

Questions?

- Alison Bradley, Tax Auditor Agent
 - Alison.Bradley@tax.state.oh.us
 - P: (614) 800-3972

- Laura M. Stanley, Esq., Division Counsel, Sales & Use Tax
 - Laura.Stanley@tax.state.oh.us
 - P: (614) 644-5764