

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 93-33

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

ISSUE:

Taxation under the restaurant classification of coupons offering special or discount prices.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1301.5 states:

"Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expense of any kind or losses, but cash discounts allowed and taken on sales are not included as gross income.

A.R.S. § 42-1310.14 states:

A. The restaurant classification is comprised of the business of operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands, soda fountains, catering services or similar establishments where articles of food or drink are sold for consumption on or off the premises.

B. The tax base for the restaurant classification is the gross proceeds of sales or gross income derived from the business.

Arizona Administrative Code (A.A.C.) R15-5-1709 states:

Coupons offering special or discount prices, such as two items for the price of one, issued by dinner clubs or other similar advertisers are taxable at full value when accepted by member establishments.

DISCUSSION:

Discount coupons which are widely used by restaurants for promotion of their establishments fall into two categories:

1. Coupons issued by the restaurant directly to the customer;
2. Coupons issued by a dinner club or other similar advertiser.

The tax base for the restaurant classification is the gross proceeds of sales or gross income derived from the business. Cash discounts allowed and taken on sales are not included in the gross proceeds of sales under the restaurant classification. When a restaurant issues and redeems its own coupons the result is that the restaurant is providing a cash discount on the selling price of a meal.

Even though a member restaurant redeeming dinner club coupons also realizes a reduction in its gross receipts, the restaurant, in essence, has engaged in a barter transaction which is valued by the amount of the reduction in gross receipts due to the coupon redemption. In *The Carriage Trade Management Corp. v. Arizona State Tax Commission*, 27 Ariz. App. 584, 557 P.2d 183 (1976), the court stated that "... the establishments are receiving a service (promotion) for the free discount they give, and the value of such a service is measured by the value of the free discount."

A restaurant which is included in a coupon book published by a dinner club or similar advertiser receives promotion of its restaurant in return for the discounted price charged the customer. The value of the promotion is measured by the value of the discount.

RULING:

A restaurant that issues and redeems its own coupons is providing its customers with a cash discount on the selling price of a meal. Therefore, when a restaurant issues and redeems its own coupons, the net selling price of the meal is subject to transaction privilege tax under the restaurant classification.

A restaurant which accepts coupons issued by a dinner club or similar advertiser is subject to transaction privilege tax on the full value of the meal which is provided in exchange for the coupons.

Examples:

1. ABC restaurant issues its own coupons which may be redeemed for a free dinner entree when a second dinner entree of equal or greater value is purchased. The charge for the dinner is itemized as follows:

One Steak Entree \$ 17.00

One Roast Beef Entree 15.00

Total \$ 32.00

Restaurant Coupon -15.00

Net Total \$17.00

The restaurant is subject to tax on \$17.00, the net selling price of the meal following the cash discount provided in exchange for the coupon issued by the restaurant.

2. XYZ restaurant accepts coupons issued by a dining club. The coupons may be redeemed for a free dinner entree when a second dinner entree of equal or greater value is purchased. The charge for the dinner is itemized as follows:

One Steak Entree \$ 17.00

One Roast Beef Entree 15.00

Total \$ 32.00

Dining Club Coupon -15.00

Net Total \$17.00

The restaurant is subject to tax on \$32.00, which includes the value of the meal provided in exchange for the coupon issued by the dining club.

Harold Scott, Director
Signed May 10, 1993

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law which are not adequately covered in statute, case law or administrative rules. A tax ruling is a position

statement which provides interpretation, details or supplementary information concerning the application of the law. **Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling.** See GTP 92-1 for more detailed information regarding documents issued by the Department of Revenue.