

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

A-3224

DATE OF INTRODUCTION:

September 23, 2004

SPONSOR:

Assemblyman Chiappone

DATE OF RECOMMENDATION:

December 6, 2004

IDENTICAL BILL:

COMMITTEE:

Assembly Appropriations Committee

DESCRIPTION:

This bill excludes the value of certain coupons and rebates from the amount taxable under the Sales and Use Tax Act.

ANALYSIS:

This bill is proposed to amend the definition of "receipt" in the "Sales and Use Tax Act", N.J.S.A. 54:32B-1, et. seq. This amendment allows a customer making a purchase with a manufacturer's coupon to pay sales tax only on the amount paid by the customer to the vendor.

This bill excludes from the definition of receipt the amount of a coupon, rebate or certificate which is accepted by the vendor as part of the sales price and entitles the customer to pay a reduced price at the time of the sales transaction. The result is that the customer is not required to pay tax on the amount of that coupon, rebate or certificate.

This change in the law will open the door for potential fraud and collusion. This bill allows the taxable receipt to be based on the amount paid by the customer at the time of the sales transaction and not on the actual consideration received by the vendor. The taxable receipt should be based on all the consideration received from the vendor for the property sold.

The sales and use tax is a broad-based tax that is designed to raise revenue from the imposition of tax at a relatively low rate on a large amount of retail transactions. Exclusions from the tax greatly impact on the very nature of the tax and the requirements to raise needed revenue. If the revenue is required from the imposition of the existing tax it must be realized that the amount not received by virtue of the proposed exemption will have to be raised from other sources. An exclusion of manufacturers' coupons from the taxable receipt would save an individual purchaser a fairly insignificant sum every year. However, the cumulative loss of revenue to the State is substantial, leaving the State to find other means of generating the revenue lost as a result of this exclusion. Considering the State's current budgetary crisis, this bill is particularly troubling.

RECOMMENDATION:

The Commission opposes enactment of this bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING: 1

(EJL)