



Tax Reduction Letter

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Revenue Ruling 76-96

Section 61.-Gross Income Defined

Automobile rebates. Rebates paid by an automobile manufacturer to qualifying retail customers who purchase or lease new automobiles, or who purchase new automobiles and trade in a specified type of vehicle, are ordinary and necessary business expenses of the manufacturer and are not includible in the gross income of the customers.

Advice has been requested whether, under the circumstances described below, the rebates received by qualifying retail customers are includible in their gross incomes under section 61 of the Internal Revenue Code of 1954, and whether the payor of the rebates may deduct the amounts paid under section 162 of the Code.

M, a manufacturer of automobiles, instituted a program whereby it pays 40x dollar rebates to all qualifying retail customers who purchase or lease a new automobile. M also pays 5x dollar rebates to all qualifying retail customers who purchase a new automobile and trade in a specified type of vehicle. For purposes of the rebate program, a qualifying retail customer is one who independently negotiates, at arm's length, with one of M's dealers to arrive at a purchase or lease price for an automobile. The automobile must be a type specified by M and the purchase or lease must be made within a prescribed period. The rebates are made subsequent to the delivery of the automobile.

Section 61 of the Code provides that gross income means all income from whatever source derived, unless specifically excluded by law.

Section 1012 of the Code provides that the basis of property shall be the cost of such property with exceptions not pertinent here.

Section 1016 of the Code provides, in pertinent part, that proper adjustment in respect of the property shall in all cases be made for expenditures, receipts, losses, or other items, properly chargeable to capital account.

Section 162 (a) of the Code provides, in pertinent part, that there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 1.162-1 (a) of the Income Tax Regulations, provides, in pertinent part, that business expenses deductible from gross income include the ordinary and necessary expenditures directly connected with or pertaining to the taxpayer's trade or business.

In the case of a purchase, at the time qualifying retail customers conclude negotiations with M's dealer, section 1012 of the Code establishes a basis for the automobiles. Assuming there are no

trade-in automobiles involved, the actual purchase price of the new automobiles will be their basis. The rebate represents a reduction in the purchase price of the automobile. Thus, when the qualifying retail customers each receive the 40x dollar rebate, section 1016 requires a downward adjustment to the basis of the automobiles. In the case of a lease, the rebate represents a reduction in the rental fee.

Accordingly, the 40x dollar rebates paid by M to qualifying retail customers who purchase or lease a new automobile are not includible in the qualifying retail customers' gross incomes.

Also, the qualifying retail customers who purchase a new automobile and trade in a specified type of vehicle and receive the 5x dollar trade-in rebates are not in receipt of gross income. However, under section 1016 of the Code, a downward adjustment to the basis of a new purchased automobile is required.

Further, the rebates made by M are ordinary and necessary business expenses. Thus, pursuant to section 162 of the Code, M is entitled to deduct the 40x dollar rebates and the 5x dollar rebates paid to qualifying retail customers.