

March 14, 2002

Unfair Cigarette Sales Act - Advertising. A RETAILER PARTICIPATING IN A BUY-DOWN PROMOTION MAY ADVERTISE THE MANUFACTURER'S BUY-DOWN AMOUNT OR THE SELLING PRICE AFTER THE ALLOWANCE FOR THE BUY-DOWN AS LONG AS THE ADVERTISEMENT ALSO INDICATES THAT SALES TAX IS COMPUTED ON THE FULL RETAIL SELLING PRICE BEFORE THE BUY-DOWN.

Advice has been requested as to whether a cigarette retailer participating in a cigarette manufacturer's buy-down promotion is permitted to advertise a promotional buy-down amount that is funded by the cigarette manufacturer. A buy-down is a form of promotional payment specifically made by a cigarette manufacturer to a retailer on a particular brand of cigarettes to reduce the retail price to consumers.

The Department of Revenue has determined that retailers participating in a buy-down promotion may use promotional signs and displays to advertise the value of a manufacturer's buy-down or the selling price of the cigarettes after allowance for the buy-down amount. Advertising the selling price net of the buy-down amount is permissible even when the buy-down amount reduces the sales price below the legal minimum retail selling price.

The promotional signs and displays must identify the full retail selling price prior to the buy-down amount and indicate that the sales tax is computed on the full retail selling price prior to the allowance for the buy-down amount.

APPROVED:



Mary Jane Egr
State Tax Commissioner

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