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MEMORANDUM

TO: William J. West, Supervisor
 Technical Services Section
 Office Services Division

FROM: Danny Payne, Director */s/*
 Tax Policy Division

DATE: September 8, 1982

RE: Sales Tax Dealer's Discount

Reference is made to your August 31, 1982, memorandum in which you request an opinion on whether dealer's discount, allowable but not claimed on a sales and use tax return, must be refunded to the dealer filing the return.

Virginia Code Section 58-441.25 allows the deduction of dealer's discount upon timely filing of a return. While it may be argued that failure to deduct the allowable dealer's discount constitutes an overpayment of the tax and should be refunded, we find no legal requirement that such amount be refunded. This is in contrast to Section 58-151.072 which requires that overpayment of individual income tax be refunded.

Currently, a sales tax dealer has recourse for recouping overpaid tax by filing an amended return pursuant to Section 58-1118.1. Allowing the refund of dealer's discount without following this procedure would appear to be an administrative decision.

dbj