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Rebate of Commissions

A recent IRS private letter ruling and court case dealt with the issue of the taxability of rebates of commissions. In a recent IRS private letter ruling 200721013(2007) the real estate agent would rebate commissions in one of two ways (1) after closing, the cash and loan proceeds are distributed to the seller and the agents, and after the purchasers agent receives its share of the commission, the agent writes a check to the purchaser pursuant to their agreement or (2) the purchaser receives a credit at closing in the amount equal to the amount of commission the purchasers agent agreed to rebate to the purchaser. The IRS ruled that a payment or credit from the purchaser's agent to the purchaser (i.e. a rebate) represents an adjustment to the purchase price of the home and generally is not includable in the purchaser's gross income. The IRS also ruled that the agent did not have to issue a 1099 to the purchaser even if the rebate was more than \$600.

In the case of Robert E. Corrigan v. Commissioner TC Memo. 2005-119, May 23, 2005 the taxpayer was a stockbroker. The taxpayer paid brokerage commission rebates to a client while he was employed by a brokerage firm. The taxpayer reduced the gross income he received from the brokerage firm by the amounts he "rebated" to the client. The court ruled the rebates were not excludable from the taxpayer's gross income but that they were deductible as itemized deductions as an unreimbursed business expense.

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