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March 28, 1979

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Administrative Interpretation No. 2.211-7904

CREDIT SERVICE CHARGES FOR CONSUMER CREDIT SALES OF  
MOTOR VEHICLES UNDER §2.211 MAY NOT EXCEED DOLLAR AMOUNT  
PROVIDED IN THAT SECTION.

You have asked whether a motor vehicle seller may compute the credit service charge for a consumer credit sale of a motor vehicle by using a "simple interest" method under Consumer Protection Code §2.211 [S.C. Code Ann. §37-2-211 (1976)], the only section of that law expressing the maximum credit service charge as an "add-on" figure.

Administrative Interpretation No. 2.211-7801 issued April 11, 1978, stated that in the opinion of this Department a consumer credit seller of motor vehicles may use either §2.201 [S.C. Code Ann. §37-2-201 (1976)] applying to consumer credit sales in general or §2.211 applying to consumer credit sales of motor vehicles in particular to determine the credit service charge ceiling applicable to a consumer credit sale of a motor vehicle. That interpretation was reconsidered on September 6, 1978, and was reaffirmed. Your question concerns the relationship between those two sections, one of which speaks in terms of rates without regard to method of determining the charge itself (§2.201) and the other stating the add-on method of computing charges (§2.211).

In our opinion, the two Consumer Protection Code provisions are independent of one another, and provide two separate methods of computing the maximum credit service charge applicable to consumer credit sales of motor vehicles.

Subsection (3) of §2.201 provides:

This section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section... (Emphasis added)

The maximum rate, calculated according to the actuarial method on the unpaid balance of the amount financed, is either the composite rate of 36% per year on the first \$300.00, 21% per year on the next \$700.00 and 15% per year on the amount over \$1,000.00 provided in subsection (2)(a) or the flat rate of 18% provided in subsection (2)(b). There is no restriction on the dollar amount of the

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credit service charge as long as it does not exceed the applicable rate.

In contrast to the maximum rates in §2.201, §2.211 provides for a maximum dollar credit service charge as illustrated by the following language taken from subsection (2):

With respect to a consumer credit sale of a motor vehicle, the seller may contract for and receive a credit service charge not in excess of the following:

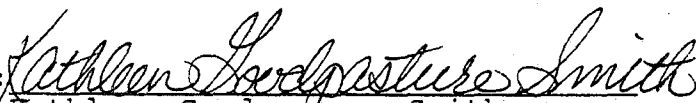
....

- (e) Any used motor vehicle, not in (a), (b), (c), or (d) and designated by the manufacturer by a year model of four years and over prior to the year in which the sale is made--sixteen dollars per one hundred dollars per year. (Emphasis added)

While §2.201 expresses the maximum credit service charge as a rate, §2.211 expresses the maximum credit service charge in dollars. Under §2.211(2)(e), the rate of credit service charge would vary depending on the payment schedule, whether monthly, bi-weekly, weekly, or otherwise. You proposed that a motor vehicle seller take the rate corresponding to the appropriate payment schedule and maximum dollars per one hundred dollars per year and use that rate to calculate the credit service charge on a "simple interest" basis by applying the daily equivalent of the annual percentage rate to the unpaid balance of the amount financed. The credit service charge would be less if payments were made ahead of schedule but it would increase if payments were late. If the consumer were late in making payments when the rate had been computed based on the maximum dollars per one hundred dollars per year, the result could be a charge in excess of that allowed by §2.211.

Based on the foregoing, it is the opinion of the Department that if a consumer credit seller of motor vehicles uses a "simple interest" method under §2.211 with the result that the dollar charge exceeds that allowable for that transaction under §2.211, the seller may be liable for and subject to action by the Administrator or a consumer for excess charges under the Consumer Protection Code.

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