BJ's Charges Full Sales Tax On Discounted Items, Suit Says

By Matt Sharp

Law360, New York -- BJ's Wholesale Club Inc. has been hit with a proposed class action in Florida state court alleging the retailer violates state law by illegally overcharging and keeping sales tax on items purchased through discounts, coupons and other price-reduction offers.

In a complaint obtained Thursday, BJ's member Laura Bugliaro claims the warehouse club chain collects sales tax on reduced items' original, full price, despite the discounted amount being untaxable under Florida state law. The money improperly collected from state customers, she claimed, is then kept by the retailer.

“Like many BJ's members, [Bugliaro] has used or received discounts provided by BJ's to use when she purchased items from a BJ's store. Under Florida law, this discount is referred to as a 'dealer's' discount or reduction,” the March 17 complaint said. “[But] when BJ's Florida customers use discounts issued by BJ's to make an in-store purchase, BJ's still charges and collects 'sales tax' on the full price of the item, notwithstanding application of the dealer’s discount.”

According to the complaint, Bugliaro purchased two different Samsung televisions in late-November 2014 from separate BJ's locations. But despite paying discounted prices of $769.99 and $329.99 — down from $1,399.99 and $529.99 respectively, the complaint noted — she was charged sales tax on the full purchase price.

The alleged overcharging not only occurs at two of BJ's 31 stores in Florida, the complaint claims, but rather is the retailer's regular practice — a practice that violates Florida’s Administrative Code and Deceptive and Unfair Trade Practices Act, it said.

“BJ's practice of improperly charging sales tax on the undiscounted purchase price of products subject to discounts not only occurred at the two BJ's stores … [but] all of [its] Florida stores,” the complaint said. “Accordingly, the prospective class consists of many thousands, if not tens of thousands, of BJ's members who were improperly charged under the guise of BJ’s collection of state sales tax.”

Bugliaro's suit is not the chain's first brush with a sales tax dispute. In a largely identical case, a Pennsylvania couple claimed the chain repeatedly hit them with sales tax on the prediscount price of coupon purchases, but only noticed when they bought a television using a rebate coupon — a purchase
large enough for them to detect the charge.

In a statement, Bugliaro's counsel Steve I. Silverman of Kluger Kaplan Silverman Katzen & Levine PL told Law360 that the proposed class action seeks to shine a light on BJ's sales tax practices.

"Our client is deeply concerned by what appears to be a pattern and practice by BJ's Wholesale Club of charging its members what BJ's claims to be a sales tax on dealer discounted items," Silverman said. "In reality, the money BJ’s is taking from its customers is not a proper tax at all. We seek to shed light on this issue and bring BJ’s unlawful practice to a halt through the class action suit we filed in the Miami-Dade-County business court."

A representative for BJ’s did not immediately respond to a request for comment Thursday.

Bugliaro is represented by Alan J. Kluger and Steve I. Silverman of Kluger Kaplan Silverman Katzen & Levine PL.

Counsel information for BJ’s was not immediately available.

The case is Laura Bugliaro v. BJ's Wholesale Club in the Circuit Court for the Eleventh Judicial Circuit of Florida. A case number has not yet been assigned.

--Additional reporting by Dan Packel. Editing by John Quinn.