

Ohio Supreme Court Rules That Statutory Interest Rate Applies to Open Accounts Absent a “Written Contract”

In a move that may catch many vendors by surprise, the Ohio Supreme Court unanimously ruled that, absent a written contract between buyers and sellers that states an agreed-upon interest rate, sellers may impose no more than the annual statutory rate — currently eight percent — for sales on account. This ruling undermines the widespread practice of establishing account interest rates by including them on invoices and delivery slips. In light of this decision, sellers that offer goods on an open account and want to recover interest above the statutory rate should obtain the buyer's written consent.

In *Minster Farmers Coop. Exchange Co., Inc. v. Meyer*, 117 Ohio St. 3d 459 (2008), customers maintained accounts with the cooperative to purchase feed, fertilizer, and miscellaneous farm supplies. In January 1998, Minster Farmers informed customers that its monthly interest rate for unpaid accounts would increase from 1 ½ percent to two percent — a move that yielded an annual interest rate of 24 percent. From that point on, all Minster Farmers' invoices and account statements included a statement that a monthly interest rate of two percent would be assessed on unpaid accounts. Customers did not, however, sign the invoices or statements or any other document in which they explicitly consented to the monthly interest rate. When Minster Farmers sued delinquent customers to recover on accounts, the customers argued that the

cooperative was limited to the statutory interest rate and could not recover the interest rate included on the invoices. Both the trial court and court of appeals rejected the customers' argument and held that Minster Farmers were entitled to the interest rate set forth on the invoices.

The Ohio Supreme Court unanimously disagreed with the lower courts' decisions. Instead, the Court held that interest on an open account is limited to the statutory rate set forth in Ohio Revised Code §1343.03(A) unless a written contract provides a different interest rate. Moreover, the Court further held, a notation of interest on an invoice or account statement does not constitute a “written contract” because sales contracts are already formed by the time an invoice or account statement comes into play.

The *Minster Farmers* decision applies only to transactions that take place after March 26, 2008. Those transactions are subject to the annual interest rate determined under Ohio Revised Code §5703.47, which, for 2008, is eight percent.¹ As a result, sellers that wish to impose a higher interest rate on account sales should add language to their master sales or service agreements that requires buyers to consent to the seller's specific interest rate. If master sales or service agreements are not used, sellers should provide some other written acknowledgment of the interest rate that is signed by both buyers and sellers.

¹The Tax Commissioner determines the interest rate under Ohio Revised Code §5703.47 based on the federal short-term interest rate rounded to the nearest whole number percent and increased by three percentage points. The Tax Commissioner's determination of the applicable interest rate is available at the Ohio Department of Taxation's web site, www.tax.ohio.gov/business/interestratecertificationforcalendaryear.

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