

A motion by Michigan to adopt a Rule relating to Delivery Charges

ARTICLE III – REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE

Rule 327.4 Delivery Charges.

“**Delivery charges**” is defined in Part I of the Library of Definitions, conjunctively with the definitions of “sales price” and “purchase price.” “Sales price” and “purchase price” include “delivery charges” unless a member state elects to exclude them. A member state may choose to exclude from “delivery charges” any of the following, if the charges are separately stated on an invoice or similar billing document given to the purchaser:

- A. handling, crating, packing, preparation for mailing or delivery, and similar charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service;
- B. transportation, shipping, postage, and similar charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser’s designee, or;
- C. the “delivery charges” for “direct mail.”

A. Direct mail.

A state that does not choose to exclude “delivery charges” in their entirety from the definitions of “sales price” and “purchase price” may opt to exclude from “delivery charges” all “delivery charges” for “direct mail,” as that term is defined in Part I of the Library of Definitions, if such charges are separately stated on an invoice or similar billing document given to the purchaser. If elected, this option would establish the treatment of “delivery charges,” excluding those properly separately stated “delivery charges” for “direct mail.”

A state that, prior to adoption of the definitions of “sales price” and “purchase price” in Part I of the Library of Definitions, excluded elements of delivery charges (including postage) from the sales/purchase price of printed material, such as advertising material, while including delivery charges in the sales price or purchase price of other products, may exclude delivery charges for direct mail by adopting the definitions for “delivery charges” and “direct mail” and excluding from “delivery charges” the “delivery charges” for “direct mail.”

Illustration 1: State A’s definition of “delivery charges” excludes the “delivery charges” for “direct mail” from the definition of “delivery charges.” All components of “delivery charges” are included in

sales/purchase price, except that all “delivery charges” for “direct mail” are excluded from sales/purchase price.

B. Handling, crating, packing, preparation for mailing or delivery, and similar charges.

A state may opt to exclude from “delivery charges” handling, crating, packing, preparation for mailing or delivery, and similar charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service, if such charges are separately stated on an invoice or similar billing document given to the purchaser. *Election of this option would permit inclusion in sales/purchase price of charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser’s designee (including but not limited to transportation, shipping, and postage) while excluding from sales/purchase price charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of personal property or a service (including but not limited to handling, crating, packing, and preparation for mailing or delivery).*

Illustration 2: State B adopts the definition of “delivery charges,” but excludes handling, crating, packing, preparation for mailing or delivery, and similar charges. Charges for transportation, shipping, and postage are included as part of sales/purchase price. Charges for handling, packing, crating, preparation for mailing or delivery, and similar charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service, if separately stated on an invoice or similar billing document given to the purchaser, are not part of the sales/purchase price of a product or service. A separate charge for storage or warehousing prior to shipment is not a charge for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser’s designee.

Illustration 3: State C adopts the definition of “delivery charges” and “direct mail,” but excludes handling, crating, packing, preparation for mailing or delivery, and similar charges as well as the “delivery charges” for “direct mail.” For items other than “direct mail,” “delivery charges” (which do not include handling, crating, packing, preparation for mailing or delivery, and similar charges separately stated on an invoice or similar billing document given to the purchaser) are included as part of the sales/purchase price of a product or service. “Delivery charges” separately stated on an invoice or similar billing document given to the purchaser are not part of the sales/purchase price of a product or service that meets the definition of direct mail.

C. Transportation, shipping, postage, and similar charges.

A state may opt to exclude from “delivery charges” transportation, shipping, postage, and similar charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser’s designee, if such charges are separately stated on an invoice or similar billing document given to the purchaser. *Election of this option would permit inclusion in sales/purchase price of charges for activities necessary for preparing personal property or a service for delivery to a location designated by the purchaser of the personal property or service (including but not limited to handling, crating, packing, and preparation for mailing or delivery), while excluding from sales/purchase price charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser’s designee (including but not limited to transportation, shipping, and postage).*

Illustration 4: State D adopts the definition of “delivery charges,” but excludes transportation, shipping, postage, and similar charges. Charges for handling, crating, packing, and preparation for mailing or delivery are included as part of sales/purchase price. Charges for transportation, shipping, postage, and similar charges for movement of personal property or a service from possession by the seller to possession by the purchaser or the purchaser’s designee, if separately stated on an invoice or similar billing document given to the purchaser, are not part of the sales/purchase price of a product or service.

Illustration 5: State E adopts the definition of “delivery charges” and “direct mail,” but excludes transportation, shipping, postage, and similar charges as well as the “delivery charges” for “direct mail.” For items other than “direct mail,” “delivery charges” (which do not include transportation, shipping, postage, and similar charges separately stated on an invoice or similar billing document given to the purchaser) are included as part of the sales/purchase price of a product or service. “Delivery charges” separately stated on an invoice or similar billing document given to the purchaser are not part of the sales/purchase price of a product or service that meets the definition of “direct mail.”

D. Reasonable and customary mark-up.

A state which excludes from the sales/purchase price of a product or service properly separately stated “delivery charges” for “direct mail,” properly separately stated handling, crating, packing, preparation for mailing or delivery, and similar charges, or properly separately stated transportation, shipping, postage, and similar charges, shall allow as excluded from the sales/purchase price of a product or service, in addition to the seller’s actual cost for such charges, such mark-up as is reasonable and customary in the seller’s

industry.

E. Seller's billing practices.

Where the seller does not separately state on an invoice or similar billing document given to the purchaser the "delivery charges" for "direct mail," handling, crating, packing, preparation for mailing or delivery, and similar charges, or transportation, shipping, postage, and similar charges, such charges shall not be excluded from "delivery charges," and shall be included in or excluded from the sales/purchase price in the same manner as "delivery charges." A seller's decision not to separately state on an invoice or similar billing document given to a purchaser any such charge which, if so separately stated, could have been excluded from the sales/purchase price, shall be presumed to be a reasonable business practice.