

Rule 327.6 Sales Price Definition – All Taxes Imposed on the Seller:

Background

The Sales Price definition is an administrative definition that all Governing Board member states must adopt to be in compliance with the SSUTA Agreement. Administrative definitions are core terms that apply in imposing and administering sales and use taxes. Core terms that apply in imposing and administering sales and use taxes are to be interpreted uniformly by all member states to reduce the burden on sellers involved in interstate commerce.

The purpose of this Rule is to clarify the intent of the clause “all taxes imposed on the seller” contained in paragraph B of the sales price definition. For the reader’s benefit, the definition of “Sales Price” (as of 4/30/10), up to and including paragraph B, is as follows:

“**Sales price**” applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property sold;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, **all taxes imposed on the seller**, and any other expense of the seller;

Paragraph B of the sales price definition lists several expenses of the seller that may not be deducted (or excluded) from the amount subject to sales tax, regardless if such costs are separately stated on an invoice or other document given to the purchaser. The overall intent of paragraph B is to cover not only the direct expenses of items and services sold, but also other indirect expenses and impositions incurred by a seller. This rule addresses both the direct and indirect expense of taxes that are imposed on seller.

As used in paragraph B, “all taxes” includes any tax, impost, levy, fee, duty or similar government imposition (including fines, penalties and interest) that is imposed by any level of government. “Imposed on the seller” refers to taxes that are levied directly upon the seller, as a legal entity, and for which no statutory or regulatory authority exists for 1) the imposing governing body to collect the applicable tax directly from the purchaser, or 2) the right of seller to pass through a separately stated amount for the applicable tax.

When determining which taxes imposed on the seller must be included in the sales price base for calculating sales and use tax on a transaction, sellers and purchasers are to adhere to the following rules.

A. Federal Taxes

1. Taxes will be presumed to be imposed on the seller unless the imposing statute specifically states that the tax is imposed on someone or thing other than the seller regardless of whether or not the seller collects and remits the tax..
2. Contracts between a seller and purchaser will not alter who the tax is statutorily imposed on.
3. The Governing Board will compile a list of examples of federal taxes and indicate, Yes or No, if each tax is considered imposed on the seller.

B. State and Local Taxes

1. Taxes will be presumed to be imposed on the seller unless the imposing statute specifically states that the tax is imposed on someone or thing other than the seller regardless of whether or not the seller collects and remits the tax..
2. Contracts between a seller and purchaser will not alter who the tax is statutorily imposed on.
3. Sales and Use taxes covered by the SSUTA Agreement will not be considered as taxes imposed on the seller for purposes of establishing the base for calculating sales and use tax on a transaction even if a tax is actually imposed on the seller, for example, a seller's privilege tax.
4. Each member state will include a list of all state and local taxes in their taxability matrix and indicate whether the tax is "included" or "excluded" from the Sales Price base under their state and local statutes, rules, case rulings or other authority.