

Rule 327.6 Sales Price Definition.

1. The purpose of this Rule is to clarify the intent of the following clauses included in the sales price definition in Appendix C, Library of Definitions:

- A. “all taxes imposed on the seller”
- B. “Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser”

The “Sales Price” definition states sellers may not deduct taxes imposed on the seller. The sales price definition states that sales price shall not include any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser”

The “Sales Price” definition lists several expenses of the seller that may not be deducted (or excluded) from the sales price, regardless if such costs are separately stated on an invoice or other document given to the purchaser. The overall intent of the sales price definition 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.

2. Partial exclusion of a definition is prohibited. A member state that has adopted the “Sales Price” definition shall use the definition contained in the Streamlined Sales and Use Tax Agreement and shall not exclude from the sales price any item included in sales price definition unless the Streamlined Sales and Use Tax Agreement specifically permits such a variation.

Example: A state imposes an excise tax on the receipts from wireless telecommunication services. The law does not have provisions for the tax to be passed onto the consumer or for the consumer to pay the tax directly to the state. The state may not pass a sales tax statute to exclude the excise tax on wireless telecommunication services from the sales price of such services.

3. “All taxes” or “ Any taxes” as used in the sales price definition includes any tax, impost, levy, fee, duty or similar government imposition (including fines, penalties and interest) that is imposed by any level of government.

4. “Imposed on the seller” as used in the sales price definition includes all taxes levied directly upon the seller for which no statutory or regulatory authority exists for:

- a.) the governing body to collect the applicable tax directly from the purchaser.
- b.) the seller to pass through to the purchaser a separately stated amount for the applicable tax.

Example: A state imposes a tax of 5% on a distributor’s gross sales of bingo or lottery equipment and supplies or pull-tabs for use in that state. There are no statutory provisions to collect the tax directly from the consumer. The statute is

silent on the issue of passing the tax through to the purchaser. This tax is included in the sales price.

5. "Imposed directly on the consumer" as used in the sales price definition includes
 - a.) all taxes levied directly upon the consumer; and
 - b.) all taxes imposed on the seller for which statutory or regulatory authority exists for:
 - i.) the governing body to collect the applicable tax directly from the purchaser.
 - ii.) the seller to pass through to the purchaser a separately stated amount for the applicable tax.

Example: Federal Excise Tax on indoor tanning services. Chapter 49, Section 5000B, states the tax "imposed by this section shall be paid by the individual on whom the service is performed". This tax is imposed directly on the consumer and when itemized on the invoice the tax is not included in the sales price.

6. Contracts between a seller and purchaser will not alter whom the tax is statutorily imposed on.
7. 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.
8. Examples of Federal taxes that are imposed on the consumer based on the above rules and are excluded from the "sales price" when separately stated on the invoice are:
 - A. Telecommunications Excise Tax. 26 USC Sec 4251.
 - B. Transportation of Persons by Air. 26 USC Sec 4261.
 - C. Transportation of Property by Air. 26 USC Sec 4271.
 - D. Tanning Service. H.R. 3590, Sec. 10907 Chapter 49, Section 5000B.