

A motion by Washington, Tennessee and South Dakota to provide credit for tax on retail sales.

Section XXX. Credit for Taxes Paid

A. Except as permitted by subsection 313 A 4, each member state shall provide credit for tax on the retail sale, excluding leases or rentals as those terms are defined in the Agreement, of a product that is paid or collected by the seller from the purchaser against a purchaser's use tax liability imposed on the storage, use, or other consumption of that product in the member state.

1. For purposes of this section, "tax on the retail sale" is a sales, use or similar tax imposed on the retail sale of a product that is sourced to the jurisdiction in accordance with the Agreement.
2. For purposes of this section:
 - a. Credit shall include credit for the full amount of state and, if any, local tax on the retail sale that is paid or collected by the seller from the purchaser. Allocation of credit for tax on the retail sale against the purchaser's state and local use tax liability shall be governed by each state's laws.
 - b. Credit may be limited to the amount of tax actually paid on the retail sale, which does not include any amount that the purchaser recovered, may recover, or could have recovered, resulting from a reduction in the amount of tax owed attributable to the allowance by the other state of an exemption or credit against tax.
 - c. Credit may be limited to tax paid on the retail sale of a product that is subjected to use tax imposed by the member state on the storage, use or other consumption of such product.
3. For purposes of this section, a member state is not required to provide credit for tax paid on the retail sale to another state if such other state does not allow a credit for taxes paid on retail sales to the member state.
4. Nothing in this section shall limit any purchaser's right under local, state, federal or constitutional law, or a state's obligation thereunder, to receive or provide a credit for sales or use taxes legally due and paid to other jurisdictions.
5. Nothing in this section prohibits a member state from providing credit on terms and conditions more favorable to a purchaser than the terms required by this section.

B. This subsection addresses the requirements applicable to member states regarding credit for taxes paid on payments with respect to a lease or rental, as defined in the Agreement.

1. Each member state:

a. Shall provide credit for “tax on the lease or rental” paid to another jurisdiction that requires tax paid or collected by the lessor from the lessee on a lump sum or accelerated basis; against

b. “Tax on the lease or rental” required on recurring periodic payments for the lease or rental of tangible personal property that is paid or collected by the lessor from the lessee in the member state.

Credit may be limited to “tax on the lease or rental” paid to another jurisdiction attributable to the period after the primary property location moved to the member state.

2. Each member state shall provide credit for “tax on the lease or rental” paid to another jurisdiction that is paid or collected by the lessor from the lessee against a lessee’s use tax liability imposed on the storage, use, or consumption of the leased property in the member state.

3. Member states may, but are not required to, provide credit for tax paid by the lessor on the lessor’s acquisition of the property from a seller for lease or rent in another jurisdiction against the tax on the lease or rental payments required to be paid or collected by the lessor from the lessee in the member state.

4. For purposes of this section, “tax on the lease or rental” is a sales, use or similar tax imposed on the lease or rental of tangible personal property that is sourced to the jurisdiction in accordance with the Agreement.

5. For purposes of this section:

a. Credit shall include credit for the full amount of state and, if any, local tax on the lease or rental that is paid or collected by the lessor from the lessee. Allocation of credit for tax on the lease or rental paid to another jurisdiction against the lessee’s state and local liability to the member state for tax on the lease or rental shall be governed by each state’s laws.

b. Credit may be limited to the amount of tax actually paid on the lease or rental, which does not include any amount that the lessee recovered, may recover, or could have recovered, resulting from a reduction in the amount of tax owed

attributable to the allowance by the other state of an exemption or credit against tax.

c. Credit may be limited to tax on the lease or rental paid on recurring periodic payments for property relocated to another jurisdiction.

6. Subsections A 3, A 4, and A 5 apply with respect to tax on the lease or rental as well as to tax on the retail sale.