

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 properly and legally 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 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.

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B. This subsection B addresses the requirements applicable to member states regarding credits for taxes paid with respect to leases or rentals, as defined in the Agreement. The provisions of subsections A 1 through A 5 apply to subsection B as appropriate.

1. Each member state shall provide credit for another jurisdiction's tax on the retail sale (lease or rental) of tangible personal property that is paid or collected by the lessor from the lessee against a lessee's sales or use tax liability imposed on the lease, rental, storage, use, or other consumption of that property in the member state. The credit is required only for tax paid to another jurisdiction for the period(s) when the property is primarily used in the member state.

2. Member states are not required to provide credit against a lessee's sales or use tax liability for tax paid by a lessor on the lessor's purchase of the leased property.