A motion by _______________ to the Governing Board to adopt common practices relating to credits for taxes paid to another state.

Common Practices Number _______ Credits

Common Practice 1.1

The state provides credit against the sales and use tax it imposes on a purchaser for **sales and use taxes subject to the SSUTA**, if those taxes were first legally due and paid by the purchaser in another state on the initial retail sale.

Example

- Purchaser purchases taxable product in State A from Seller for $1,000.
- Purchaser receives possession of product at Seller's business location.
- Seller charges State A's 5% sales tax and collects the $50 tax from Purchaser.
- Purchaser takes the product to State B where the state use tax rate is 6%.
- State B imposes its tax based on the $1,000 purchase price of the product.
- State B gives credit for the 5% sales tax purchaser paid to Seller ($50) in State A against the $60 ($1,000 x 6%) use tax due in State B.

Common Practice 1.2

The state provides credit against the sales and use tax it imposes on a purchaser for **similar taxes**, if those similar taxes were first legally due and paid by the purchaser in another state on the initial retail sale. A similar tax, at a minimum, is a tax that has both a sales and use tax component, is computed based on a percentage of the sales/purchase price, and a credit would be allowed against that tax for a general sales or use tax paid in another state.

Example A –Similar tax

- State A imposes a 5% motor vehicle excise tax on sales of motor vehicles.
- For motor vehicle sales sourced to State A, those sales are subject to the 5% motor vehicle excise tax.
- If a person purchases a motor vehicle in another state and was not required to pay the other states' sales or use tax and then later stores, uses, or consumes the motor vehicle in State A, State A requires the purchaser to pay its 5% motor vehicle excise tax.
- If a person purchases a motor vehicle in another state and was required to pay the other states' sales or use tax, State A will give a credit for that sales or use tax paid in the other state against its 5% motor vehicle excise tax.
- State A's motor vehicle excise tax is a "similar tax"

Example B – Not a Similar Tax – No "use tax" imposed

- State B imposes a 5% motor vehicle excise tax on sales of motor vehicles.
- For motor vehicle sales sourced to State B, those sales are subject to the 5% motor vehicle excise tax.
- State B does not impose its motor vehicle excise tax on the purchaser for storing, using, or otherwise consuming the motor vehicle in State B.
- State B's motor vehicle excise tax is not a "similar tax" because there is no tax imposed on the purchaser for storing, using, or otherwise consuming the motor vehicle in State A.

Example C – Not a Similar Tax – No credit allowed against it for s/u tax paid in other state)

- State C imposes a 5% motor vehicle excise tax on sales of motor vehicles.
- For motor vehicle sales sourced to State C, those sales are subject to the 5% motor vehicle excise tax.
- If a person purchases a motor vehicle in another state and was not required to pay the other states' sales or use tax and then later stores, uses, or consumes the motor vehicle in State C, State C requires the purchaser to pay its 5% motor vehicle excise tax.
- If a person purchases a motor vehicle in another state and was required to pay the other states' sales or use tax, State C will NOT give a credit for that sales or use tax paid in the other state against its 5% motor vehicle excise tax.
- State C's motor vehicle excise tax is not a "similar tax" because State C will not give credit against its motor vehicle excise tax for a sales or use tax paid in another state.

Example D – Not a Similar Tax – Tax not imposed as a percentage of sales/purchase price

- State D imposes a motor vehicle excise tax that is a flat $200 per vehicle.
- State D's motor vehicle excise tax is not a "similar tax" because the tax is not measured as a percentage of the sales price of the motor vehicle.

Refer to "similar tax" table when completed.

Common Practice 1.3

The state provides credit against the sales and use tax it imposes on a purchaser for sales and use taxes subject to the SSUTA, and for similar taxes, if those taxes were first legally due and paid by the purchaser in another state on the **subsequent use** (i.e., use after the initial retail sale) of the product.

Example

- Purchaser purchases taxable product in State A from Seller for $1,000.
- Purchaser receives possession of product at Seller's business location.
- Seller charges State A's 5% sales tax and collects the $50 tax from Purchaser.
- Purchaser takes the product to State B where the state use tax rate is 6%.

- State B imposes its tax based on the $1,000 purchase price of the product.
- State B gives credit for the 5% sales tax purchaser paid to Seller ($50) in State A against the $60 ($1,000 x 6%) use tax due in State B.
- State B will receive $10 in use tax ($60 - $50) on this transaction.
- After Purchaser paid the additional $10 tax to State B, Purchaser takes the product to State C.
- The use tax rate in State C is 7%.
- State C imposes its tax on the $1,000 purchase price of the product.
- State C gives credit for the $50 tax paid to Seller in State A and the additional $10 in tax paid in State B against the $70 ($1,000 X 7%) use tax due in State C.
- State C will receive $10 in use tax ($70 - $50 - $10) on this transaction.
- Purchaser paid a total of $70 in sales and use tax.

Common Practice 1.4

The state provides credit against the sales and use tax it imposes on a purchaser for similar taxes (as described in Common Practice 1.2), that were first legally due and paid by the purchaser in another state on the **subsequent use** (i.e., use after the initial retail sale) of the product.

Common Practice 1.5

The state provides credit against the sales and use tax it imposes on a purchaser for sales and use taxes that were first legally due and paid by the purchaser in another state regardless of whether the other state is an SST member state or nonmember state.

Common Practice 1.6

The state provides credit against the sales and use tax it imposes on a purchaser for similar taxes (as described in Common Practice 1.2) that are legally due and paid by the purchaser in another state regardless of whether the other state is an SST member state or nonmember state.

Common Practice 1.7(A)

The state provides credit against the sales and use tax it imposes on a purchaser for sales and use taxes subject to the SSUTA that were first legally due and paid by the purchaser in another state regardless of whether the other state treats the transaction as the sale of a service, the sale of tangible personal property, or the sale of another nature, (i.e., a digital good).

Example – printing or software

Common Practice 1.7(B)

The state provides credit against the sales and use tax it imposes on a purchaser for <u>similar taxes</u> (as described in Common Practice 1.2) that were first legally due and paid by the purchaser in another state regardless of whether the other state treats the transaction as the sale of a service, the sale of tangible personal property, or the sale of another nature, (i.e., a digital good).

<u>Common Practice 1.9</u>

The state where the product is stored, used, or consumed <u>does not provide credit</u> against the sales and use tax it imposes on a purchaser for sales, use, or similar taxes (as described in Common Practice 1.2), that were paid by the purchaser to another state if the tax paid was not legally due to the other state, regardless of whether the seller properly sourced the transaction in accordance with the SSUTA and regardless of whether or not the purchaser is able to obtain a refund of the tax paid to the other state.

<u>Example A – Purchaser cannot get tax back from state in which tax was paid in error</u>

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser has product delivered to Purchaser's location in State B.
- Seller incorrectly charges State A's 5% state sales tax ($50) on the transaction.
- Purchaser uses the product in State B where the state use tax rate is 6%.
- State B contacts Purchaser and informs Purchaser that State B's 6% sales or use tax is due on the product.
- Purchaser provides receipt showing Purchaser paid State A's 5% state sales tax.
- State B indicates that since the transaction was properly sourced to State B, Seller incorrectly collected State A's sales tax and no credit would be given for that tax and the full 6% tax was due to State B.
- Purchaser contacts Seller (or State A) and is <u>not</u> able to get a refund of State A's tax that was paid in error.
- Purchaser owes 6% sales or use tax to State B and State B does not give credit for the tax Purchaser improperly paid to State A.

<u>Example B – Purchaser can get tax back from state in which tax paid in error</u>

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser has product delivered to Purchaser's location in State B.
- Seller incorrectly charges State A's 5% state sales tax ($50) on the transaction.
- Purchaser uses the product in State B where the state use tax rate is 6%.
- State B contacts Purchaser and informs Purchaser that State B's 6% sales or use tax is due on the product.
- Purchaser provides receipt showing Purchaser paid State A's 5% state sales tax.

- State B indicates that since the transaction was properly sourced to State B, Seller incorrectly collected State A's sales tax and no credit would be given for that tax and the full 6% tax was due to State B.
- Purchaser contacts Seller (or State A) and is able to get a refund of State A's tax that was paid in error.
- Purchaser owes State B's sales or use tax on this transaction.

Common Practice 1.10

The state where the product is first stored, used, or consumed provides credit against the sales and use tax it imposes on a purchaser for sales, use, or similar taxes that were paid by the purchaser to another state if the tax paid was not legally due to the other state if the purchaser is not able to obtain a refund of the tax paid to the other state.

Example – Purchaser cannot get tax back from state in which tax was paid in error

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser has product delivered to Purchaser's location in State B.
- Seller incorrectly charges State A's 5% state sales tax ($50) on the transaction.
- Purchaser uses the product in State B where the state use tax rate is 6%.
- State B contacts Purchaser and informs Purchaser that State B's 6% sales or use tax is due on the product.
- Purchaser provides receipt showing Purchaser paid State A's 5% state sales tax.
- State B indicates that since the transaction was properly sourced to State B, Seller incorrectly collected State A's sales tax.
- Purchaser contacts Seller (or State A) and is not able to get a refund of State A's tax that was paid in error.
- Since Purchaser is not able to obtain a refund of the tax incorrectly paid to State A, State B will give credit for the tax Purchaser improperly paid to State A.

Common Practice 1.11

The state where the product is first stored, used, or consumed provides credit against the sales and use tax it imposes on a purchaser for sales, use, or similar taxes that were paid by the purchaser to another state if the tax paid was not legally due to the other state only if the seller properly sourced the transaction in accordance with the SSUTA and the purchaser is not able to obtain a refund of the tax paid to the other state.

Is an Example needed here?

Common Practice 1.12

Except for transactions involving leases or rentals of tangible personal property and transactions that require continued payments, the state provides credit against the sales or use tax it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first legally due and paid by the purchaser in another state regardless of whether the state imposes its tax on the purchaser as a "sales" tax or a "use" tax.

Common Practice 1.13

Except for transactions which may be initially sourced to more than one state at the same time, when a transaction involves two member states, the sourcing rules contained in the SSUTA will be used to determine which state has priority to impose its tax. However, if the actual facts show that the product was first used in a state other than to the state to which the seller sourced the transaction, the state in which the product was first used does not give credit for the tax the purchaser paid to the seller.

Common Practice 1.14

For transactions which may be initially sourced to more than one state at the same time, states which tax the transaction as a service (first state) are given priority over states which tax the transaction as a sale of tangible personal property (additional state(s)). Tax paid to the first state is legally due and the additional state(s) gives credit against the sales or use tax it imposes on a purchaser for the sales and use tax paid to the first state.

Common Practice 1.15

The crediting state does not provide credit against the sales or use tax it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first legally due and paid by the purchaser in another state on components within the "Sales Price" definition which the crediting states excludes from its definition of sales price or purchase price.
(Are separate common practice statements needed to split this out between "sales and use taxes subject to the SSUTA and similar taxes? How granular does this need to be?)

*Example A – Delivery charges **excluded** from "crediting states" definition of "sales price" but included in definition of "sales price" in state where sale was sourced*

- Purchaser purchases taxable product in State A from Seller for $10,000 plus $1,000 delivery charge for a total of $11,000.
- The delivery charges are separately stated on the invoice given to the purchaser.
- Product is delivered to Purchaser at Purchaser's business location in State A.
- State A includes "delivery charges" in its definition of "sales price."

- Seller charges State A's 5% sales tax and collects the $550 ($11,000 x 5%) tax from Purchaser.
- Purchaser takes the product to State B where the state use tax rate is 6%.
- State B does not include the $1,000 "delivery charges" in its definition of "sales price."
- State B imposes its tax based on the $10,000 purchase price of the product.
- State B only gives credit for the 5% sales tax purchaser paid to Seller in State A on the same measure of the "sales price" or "purchase price" that State B is imposing its use tax ($10,000).
- State B only gives credit for the $500 in sales tax Purchaser paid on the $10,000 measure against the $600 ($10,000 x 6%) use tax due in State B.
- State B will receive $100 in use tax ($600 - $500) on this transaction.
- Purchaser paid a total of $650 in sales and use tax ($550 to State A and $100 to State B).
- State B does not give credit for the additional $50 in use tax that Purchaser paid in State A on the separately stated delivery charges since State B does not include "delivery charges" in its definition of "sales price" or "purchase price."

Example B – Delivery charges ***included*** *in "crediting states" definition of "sales price" but excluded from definition of "sales price" in state where sale was sourced*

- Purchaser purchases taxable product in State X from Seller for $10,000 plus $1,000 delivery charge for a total of $11,000.
- The delivery charges are separately stated on the invoice given to the purchaser.
- Product is delivered to Purchaser at Purchaser's business location in State X.
- State X does not include "delivery charges" in its definition of "sales price."
- Seller charges State X's 5% sales tax and collects the $500 ($10,000 x 5%) from Purchaser.
- Purchaser takes the product to State Y where the state use tax rate is 6%.
- State Y includes "delivery charges" in its definition of "sales price."
- State Y imposes its tax based on the $11,000 purchase price of the product.
- State Y gives credit for the 5% sales tax purchaser paid to Seller in State X on the same measure of the "sales price" or "purchase price" that State Y is imposing its use tax ($10,000) up to the amount of tax Purchaser actually paid in State X.
- State Y gives credit for the $500 in sales tax Purchaser paid on the $10,000 measure against the $600 ($10,000 x 6%) use tax due in State Y on that same measure.
- State Y imposes its 6% tax on the additional $1,000 delivery charges that were excluded from the measure upon which Purchaser paid tax in State X.
- State Y will receive $160 in use tax ($660 - $500) on this transaction.
- Purchaser paid a total of $660 in sales and use tax ($500 in State X and $160 in State Y).

Example C - Delivery charges included in "crediting states" definition of "sales price" but excluded from definition of "sales price" in state where sale was sourced

- Purchaser purchases taxable product in State L from Seller for $10,000 plus $1,000 delivery charge for a total of $11,000.
- The delivery charges are separately stated on the invoice given to the purchaser.
- Product is delivered to Purchaser at Purchaser's business location in State L.
- State L does not include "delivery charges" in its definition of "sales price."
- Seller charges State L's 6% sales tax and collects the $600 tax ($10,000 x 6%) from Purchaser.
- Purchaser takes the product to State M where the state use tax rate is 5%.
- State M includes "delivery charges" in its definition of "sales price."
- State M imposes its tax based on the $11,000 purchase price of the product.
- State M gives credit for the 6% sales tax Purchaser paid to Seller in State L on the same measure of the "sales price" or "purchase price" upon which State M is imposing its use tax ($11,000) up to the measure Purchaser actually paid tax on in State L ($10,000).
- State M gives credit for the $600 in sales tax Purchaser paid in State L on the $10,000 measure against the $500 ($10,000 x 5%) use tax due in State M. (Note: Although Purchaser paid $600 in tax, the measure upon which that tax was paid was only $10,000. Therefore Purchaser can offset only the tax ($500) due on $10,000 in State M.)
- State M imposes its 5% tax on the additional $1,000 State M includes in its definition of "sales price" or "purchase price" relating to the delivery charges.
- State M will receive $50 in use tax ($1,000 x 5%) on this transaction.
- Purchaser paid a total of $650 in sales and use tax.

Common Practice 1.16

The crediting state does not provide credit against the sales or use tax it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first legally due and paid by the purchaser in another state on components of a transaction which the crediting states does not impose its sales or use tax.

Example A – Labor charges not taxed by "crediting states" but taxed in state where sale was sourced

- Purchaser has a taxable product repaired in State A by Seller.
- Seller charges $6,000 for parts plus $4,000 for labor.
- Product is delivered to Purchaser at Purchaser's business location in State A.
- State A imposes tax on the parts and labor.
- Seller charges State A's 5% sales tax and collects the $500 tax from Purchaser.
- Purchaser takes this product to State B where the state use tax rate is 6%.
- State B does not impose tax on labor charges.
- State B imposes its tax only based on the $6,000 charge for the parts.

- State B only gives credit for the 5% sales tax purchaser paid to Seller in State A on the same measure that State B is imposing its use tax on ($6,000).
- State B only gives credit for the $300 ($6,000 x 5%) in sales tax Purchaser paid on the $6,000 measure against the $360 ($6,000 x 6%) use tax due in State B.
- State B will receive $60 in use tax ($360 - $300) on this transaction.
- State B does not give credit for the additional $200 ($4,000 x 5%) in sales or use tax that Purchaser paid in State A on the separately stated labor charges since State B does not impose its tax on labor charges.

Example B – Labor charges taxed in "crediting state" but not taxed in state where sale was sourced

- Purchaser has a taxable product repaired in State X.
- Seller charges $6,000 for repair parts and $4,000 for labor.
- Product is delivered to Purchaser at Purchaser's business location in State X.
- State X imposes 5% tax on the $6,000 charge for the parts, but not on the labor.
- Seller charges State X's 5% sales tax and collects the $300 ($6,000 x 5%) tax from Purchaser.
- Purchaser takes the product to State Y where the state use tax rate is 6%.
- State Y imposes its 6% tax on both the $6,000 charge for the parts and the $4,000 labor charge for a total of $600 ($10,000 x 6%).
- State Y gives credit for the 5% sales tax ($300) purchaser paid to Seller in State X on the repair parts against the use tax ($360) that State Y is imposing on the repair parts ($6,000 x 6%).
- State Y imposes its 6% tax on the additional $4,000 labor charge that was not taxed in State X ($240).
- State Y will receive a total of $300 in use tax ($600 - $300) on this transaction.
- Purchaser paid a total of $600 in sales and use tax.

Example C – Labor charges taxed in "crediting state" but not taxed in state where sale was sourced

- Purchaser has a taxable product repaired by Seller in State L.
- Seller charges Purchaser $6,000 for repair parts plus $4,000 for repair labor.
- Product is delivered to Purchaser at Purchaser's business location in State L.
- State L does not impose its tax on labor charges.
- Seller charges State L's 6% sales tax on the repair parts and collects the $360 tax ($6,000 x 6%) from Purchaser.
- Purchaser takes the product to State M where the state use tax rate is 5%.
- State M imposes its tax on both repair parts ($6,000) and repair labor ($4,000).
- State M gives credit for State L's 6% sales tax Purchaser paid to Seller ($360) in State L on the same measure (i.e., $6,000 for repair parts) that State M is imposing its use tax

($300) on, up to the amount of tax due on the repair parts in State M ($300). (Note: Although Purchaser paid $360 in tax, the measure upon which that tax was paid was only $6,000 (i.e., just the repair parts). Therefore Purchaser can offset only the tax due on $6,000 in State M.)

- State M imposes its 5% tax on the additional $4,000 labor charge.
- State M will receive $200 in use tax ($4,000 x 5%) on this transaction.
- Purchaser paid a total of $560 in sales and use tax ($360 in State L and $200 in State M).

Common Practice 1.17

The crediting state provides credit against the sales or use tax it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first legally due and paid by the purchaser in another state on components of a transaction which the crediting states does not impose its sales or use tax.

Common Practice 1.18

The state provides credit against the sales or use tax it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first legally due and paid by the purchaser in another state pursuant to an audit using a statistical sampling method.

Common Practice 1.19(A)

A state that imposes local sales and use taxes gives credit against the state and local sales and use tax it imposes on a purchaser for state and local sales and use taxes subject to the SSUTA that were first legally due and paid by the purchaser in another state.

Example – State and local rate paid in state to which sale was sourced equals combined state and local tax rates where product is used

- Purchase purchases taxable product from Seller in State X for $1,000.
- Purchaser takes possession of the product at Seller's location in State X.
- Seller charges State X's 6% state sales tax and 1% local sales tax on the transaction.
- Purchaser takes the product to State Y.
- State Y imposes a 5% state sales tax and 2% local tax on the transaction.
- State Y gives credit for the entire 7% state and local sales tax Purchaser paid to Seller ($70) in State X against the $70 ($1,000 x 5% plus $1,000 x 2%) state and local sales and use taxes due in State Y.
- State Y will not receive any use tax on this transaction since the 7% state and local sales tax paid in State X was equal to the combined state and local taxes due in State Y.

Common Practice 1.19(B)

A state that does not impose local sales and use taxes <u>does not give credit</u> against the state sales and use tax it imposes on a purchaser for local sales and use taxes that were first legally due and paid by the purchaser in another state.

<u>Example – State and local tax paid in state to which sale was sourced but no local tax imposed by state in which product was used</u>

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser takes possession of the product at Seller's location in State A.
- Seller charges State A's 5% state sales tax ($50) and 1% local sales tax ($10) on the transaction.
- Purchaser takes the product to State B where the state use tax rate is 7%.
- State B does not impose any local taxes.
- State B gives credit for the state sales tax ($50) Purchaser paid to Seller but does not give credit for the 1% local sales tax Purchaser paid to Seller ($10) in State A against the $70 ($1,000 x 7%) use tax due in State B.
- State B will receive $20 in use tax ($70 - $50) on this transaction.
- Purchaser paid a total of $80 in sales and use tax.

<u>Common Practice 1.19(C)</u>

A state that does not impose local sales and use taxes <u>gives credit</u> against the state sales and use tax it imposes on a purchaser for local sales and use taxes that were first legally due and paid by the purchaser in another state.

<u>Example – State and local tax paid in state to which sale was sourced but no local tax imposed by state in which product was used</u>

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser takes possession of the product at Seller's location in State A.
- Seller charges State A's 5% state sales tax ($50) and 1% local sales tax ($10) on the transaction.
- Purchaser takes the product to State B where the state use tax rate is 7%.
- State B does not impose any local taxes.
- State B gives credit for both the 5% state and 1% local sales tax Purchaser paid to Seller ($60) in State A against the $70 ($1,000 x 7%) use tax due in State B.
- State B will receive $10 in use tax ($70 - $60) on this transaction.
- Purchaser paid a total of $70 in sales and use tax.

<u>Common Practice 1.19(D)</u>

A state that gives credit for state and local sales and use taxes that were first legally due and paid to another state requires the purchaser to allocate the state and local taxes paid to the other state in a manner that does not require the purchaser to determine whether the tax paid to the other state was a state or local tax.

Common Practice 1.20

A state that imposes local sales and use taxes gives credit against the state and local sales or use taxes it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first legally due and paid by the purchaser in another state as follows: state sales and use taxes paid in another state against the state taxes due; and local sales and use taxes paid in another state against the local taxes due.

Common Practice 1.21

A state does not give credit against the sales or use taxes it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first legally due and paid by the purchaser in another state unless the other state provides a reciprocal credit.

Common Practice 1.22

A state gives credit against the sales or use taxes it imposes on a purchaser for sales and use taxes subject to the SSUTA and for similar taxes that were first paid by the purchaser in another state on advertising and promotional direct mail sourced pursuant to SSUTA Section 313.A.4.