

(this will be in the Appendix, section 335 Best Practices)

A motion by \_\_\_\_\_ to the Governing Board to adopt Best Practices relating to credits for taxes paid to another states or local jurisdiction.

Best Practice Number \_\_\_\_\_ Credits

Notes to be removed.

This document contains five sections.

Section 1 indicates if credit is provided for state tax and if credit is provided for local taxes.

Section 2 lists criteria that must be met before a State will issue a credit against the sales or use taxes it imposes on a purchaser for sales or use taxes paid another state. All criteria the state responds yes to will apply in all credits situations.

Section 3 Specific Issues

Section 4 Direct Mail

Section 5 Lease and Rentals

Not added yet – (will work on next week)

- Conditional Sales – cash reporting – product moves to another state
- Refunds provided by state to purchaser when transaction is taxed in another state after the original purchase.

## 1. Credit for State and Local Taxes

### Best Practice 1.1 State Taxes

The states provides credit against the state sales or use taxes subject to the SSUTA it imposes on a purchaser for state sales or use taxes that are paid in another state when the practice for each criteria as identified by that state is met.

### Best Practice 1.2 Local Taxes

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for local taxes paid in another state when the practice for each criteria as identified by that state is met.

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Credit for the local tax is allocated as follows:

**Best Practice 1.2.a**

Allocation method is total state and/or local tax paid against total state and/or local tax due.

**Best Practice 1.2.b**

Allocation method is state tax paid against state tax due and local tax paid against local tax due.

**2. Criteria for Credit**

States must identify the criteria they use to determine when to provide credit as stated in Best Practice 1.1 and/or 1.2. The required criteria must apply to all transactions where the credit is provided to the purchaser.

**Best Practice 2.1 First Legally Due**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state when the tax paid in the other state was first legally due.

**Best Practice 2.2 Initial Retail Sale**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state when the tax paid in the other state was on the initial retail sale.

**Best Practice 2.3 Sourcing at Time of Initial Sale**

**Best Practice 2.3.a**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state pursuant to Sections 310.A.3, 310.A.4., or 310.A.5.

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### **Best Practice 2.3.b**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state pursuant to Sections 310.A.3, 310.A.4, or 310.A.5 when the purchaser does not receive the product in that state and cannot obtain a refund in the state where tax was paid.

### **Best Practice 2.4 Characterization of sale as product or service**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state regardless of the characterization of the sale as a sale of tangible personal property, a service, or other (i.e., digital good).

### **Best Practice 2.5 Sales Price Components**

#### **Best Practice 2.5.a**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for the sales or use taxes paid in another state on all components of the sales price.

#### **Best Practice 2.5.b**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for the sales or use taxes paid in another state on only the taxable components of the sales price in the crediting state.

### **Best Practice 2.6 Taxable Products and Services**

#### **Best Practice 2.6.a**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for the total sales or use taxes paid in another state on all products and services included in the sales price.

#### **Best Practice 2.6.b**

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The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for the sales or use taxes paid in another state on only the taxable products or services in the crediting state.

### **Best Practice 2.7 Reciprocity - SSUTA Member State**

#### **Best Practice 2.7.a**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in any state.

#### **Best Practice 2.7.b**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state only when the other state provides a reciprocal credit.

#### **Best Practice 2.7.c**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state only when the other state is a member of the SSUTA.

### **3. Specific Credit Issues**

The state may provide credit for the following situations when all criteria as required by the state in Sections 1 and 2 are met.

#### **Best Practice 3.1 Consumer Use Taxes**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for use taxes previously paid.

#### **Best Practice 3.2 Similar Taxes**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for similar taxes paid in another state.<sup>1</sup>

### **Best Practice 3.3 Audit Sampling**

The state provides credit against the sales or use taxes subject to the SSUTA it imposes on a purchaser for sales or use taxes paid in another state pursuant to an audit sampling method.

## **4. Direct Mail**

### **Best Practice 4.1**

The state provides credit against the sales or use taxes subject to the SSUTA it imposed on a purchaser for sales or use taxes paid in another state on advertising and promotional materials pursuant to Section 313.A.4.

## **5. Lease and Rentals**

**Lease or Rentals** include lease or rentals as defined in SSUTA Appendix C, Part 1.

Credit practices for sales or use tax on the lease or rental of motor vehicles and equipment as sourced under SSUTA 310. C. and transportation and other equipment as sourced under SSUTA 310.D. are not included in this document.

**5.1.** State imposes tax on the lease and rental periodic payments when the product enters the state.

### **Best Practice 5.1.a**

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<sup>1</sup> The following states impose a similar tax on certain property and allow credit against the similar tax for sales and use taxes paid that are subject to the SSUTA: Iowa (motor vehicle excise tax); North Carolina (highway use tax, scrap tire tax, mill machinery tax, datacenter tax, manufacturing tax); Rhode Island (motor vehicle excise tax); South Dakota (farm and irrigation equipment excise tax).

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on lease or rental payments for sales or use taxes the lessor collects when the state in which the lease originated imposes tax on the **entire stream** of lease and rental payments.

Credit applies as follows:

- i. If the sales or use tax rate imposed is greater than the sales or use tax rate paid in the state in which the lease originated, the difference in the sales or use tax rates applies to each periodic payment.
- ii. Credit for sales or use tax collected by the lessor for the state in which the lease originated on payments after the product enters the state is applied against sales and use tax due the state the periodic lease payments until such time as the credit is exhausted, any remaining lease payments are subject to the state's sales or use tax.

#### **Best Practice 5.1.b**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on lease or rental payments for sales or use taxes the lessor collects when the state in which the lease originated imposes tax on the **sum of the lease or rental payments** at the inception of the lease or rental.

Credit applies as follows:

- i. If the sales or use tax rate imposed is greater than the sales or use tax rate paid in the state in which the lease originated, the difference in tax rates applies to each periodic payment.
- ii. Credit for all sales or use tax collected by the lessor for the state in which the lease originated on payments after the product enters the state is applied against the periodic lease payments until such time as the credit is exhausted, any remaining lease payments are subject to the state's sales or use tax.

#### **Best Practice 5.1.c**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on lease or rental payments for sales or use taxes the lessor paid on the **purchase of the product** which are passed on to the lessee as a line-item amount.

Credit applies as follows:

- i. If the sales or use tax due is greater than the sales or use tax listed as the line-item, the difference applies to each periodic payment.

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- ii. Credit for sales or use tax paid by the lessor on the purchase of the product is applied against the periodic lease payments until such time as the credit is exhausted, any remaining lease payments are subject to the state's sales or use tax.

**5.2.** State imposes tax on the sum of the periodic lease and rental payments beginning when the product enters the state.

**Best Practice 5.2.a.**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on the sum of the lease and rental payments for sales or use taxes the lessor collects when the state in which the lease originated imposes tax on the **entire stream** of payments.

Credit applies as follows:

- i. If the tax rate impose is greater than the rate paid in the state in which the lease originated, the difference in tax rates applies to each periodic payment.
- ii. Credit for sales or use tax collected by the lessor for the state in which the lease originated on payments after the product enters the state is applied against sales and use tax due the state the periodic lease payments until such time as the credit is exhausted, any remaining lease payments are subject to the state's sales or use tax.

**Best Practice 5.2.b.**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on the sum of the lease and rental payments for sales or use taxes the lessor collects when the state in which the lease originated imposes tax on the **sum of the lease or rental payments** at the inception of the lease or rental.

Credit applies as follows:

- i. If the tax rate impose is greater than the rate paid in the state in which the lease originated, the difference in tax rates applies to each periodic payment.
- ii. Credit for sales or use tax collected by the lessor for the state in which the lease originated on payments after the product enters the state is applied against sales and use tax due the state the periodic lease payments until such time as the credit

is exhausted, any remaining lease payments are subject to the state's sales or use tax.

#### **Best Practice 5.2.c.**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on the sum of lease or rental payments for sales or use taxes the lessor paid on the **purchase of the product** which is passed on to the lessee as a line-item amount.

Credit applies as follows:

- i. If the sales or use tax due is greater than the sales or use tax listed as the line-item, the difference applies to each periodic payment.
- ii. Credit for sales or use tax paid by the lessor on the purchase of the product is applied against the periodic lease payments until such time as the credit is exhausted, any remaining lease payments are subject to the state's sales or use tax.

**5.3.** State imposes tax on the leased or rented product at the time it enters the state.

#### **Best Practice 5.3.a**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on the product for sales or use taxes the lessor collects when the state in which the lease or rental originated imposes tax on the **entire stream** of payments or on **the sum of** the lease or rental payments at the inception of the lease or rental.

#### **Best Practice 5.3.b.**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on the product for sales or use taxes the lessor collects when the state in which the lease or rental originated imposes tax on the entire stream of payments or on the sum of the lease or rental payments at the inception of the lease or rental, but only for the **portion of payments while the product is in the state.**

#### **Best Practice 5.3.c.**

The state provides a credit against the sales or use taxes subject to the SSUTA it imposes on lease or rental product for sales or use taxes the lessor paid on the **purchase of the product.**

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*Note: How the state computes the value of the product – whether by purchase price, FMV, depreciated value, or sum of lease payments while in that state – is up to the state and is not identified in this document.*

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