

## **DISCLOSURE OF PRACTICES – POST-TRANSACTION ISSUES – EXAMPLES**

### **1 Claiming Credits or Refunds of Tax**

#### **1.1 Seller Claims Deduction for Returned Product – Same Tax Period**

*Explanation for 1.1 and 1.2: Seller deducts on its tax return: 1) the price of the returned product from its total gross sales/receipts and 2) the tax that was refunded to the purchaser. Assume all requirements are met for seller to otherwise claim a refund/deduction and seller is remitting more tax than it is deducting on its return.*

- Seller makes a \$100 sale in January that is subject to the 6% state sales tax.
- Seller collects the \$6 in sales tax from the customer.
- Seller records the \$100 sale and \$6 in sales tax owed to the state in its books and records.
- Customer returns the product in the same month (January).
- Customer receives a full refund (\$106) from seller that month.

Assuming the seller includes the \$100 sale in its gross sales for that month; can the seller also claim a \$100 deduction from its gross sales on its return for that month?

#### **1.2 Seller Claims Deduction for Returned Product – Different Tax Period**

Seller makes a sale in late January and remits the tax on its tax return that covers that month (*e.g.*, \$6 tax). Product is shipped to the customer in February; however, it is returned in May. Seller provides the purchaser with a full refund in May. Can seller reduce the tax owed on its return that covers May by \$6?

- Seller makes a \$100 sale in January that is subject to the 6% state sales tax.
- Seller collects the \$6 in sales tax from the customer.
- Seller records the \$100 sale and \$6 in sales tax owed to the state in its books and records, reports the \$100 sale on its January return and pays the \$6 in tax owed to the state.
- Customer returns the product in the May.
- Customer receives a full refund (\$106) from Seller in May.

Can Seller claim a \$100 deduction from its gross sales on its May return for the refund provided to Customer?

#### **1.3 Refund Pending Approval - Claim Filed Without Refunding Purchaser**

Can a seller that timely files a refund claim for a purchaser wait to refund the tax to the purchaser until the State approves the refund? Refund will be paid to purchaser if the State approves the claim.

#### **1.4 Purchaser Files Claim Directly to the State**

a. After contacting the seller, is there a procedure that allows a purchaser to directly file a refund claim to the State?

b. If yes, please explain procedure.

#### **1.5 No Limited Refund Period on Return of Good**

a. Outside the state's normal statute of limitations, does the state require that the return be made within a certain period of time in order for seller to receive credit for or refund of sales/use tax?

b. If yes, please specify time limitation.

#### **1.6 Documentation to Support Sales Tax Paid**

a. Absent a concern with fraud, for purposes of a refund claim, does the seller's provision of a paper or electronic invoice showing tax charged on a transaction sufficient to establish that a purchaser paid sales tax on a transaction?

b. If additional documentation is needed, please specify what documentation is required.

## **2 Restocking Fees**

### **2.1 Restocking Fee Deducted from Refund Amount**

a. Seller imposes 20% restocking fee on items returned by purchaser. Purchaser paid \$100 for good along with \$6 in tax, a total of \$106. Seller refunds purchaser \$86 (\$100-\$20+\$6). Is the \$100 transaction subject to a full sales/use tax refund?

b. If State taxes restocking fees as a taxable service (tax on \$20), please answer yes and indicate the fee is taxable in the comments.

### **2.2 Separate Restocking Fee**

a. Same facts as 2.1; however, seller refunds entire \$106 and separately imposes \$20 restocking fee to purchaser. Is the \$100 transaction subject to a full sales/use tax refund?

b. If State taxes restocking fees as a taxable service (tax on \$20), please answer yes and indicate the fee is taxable in the comments.

### **3 Returns of Goods & Delivery Charges**

*Member states are required to indicate on their respective taxability matrices whether delivery charges are included or excluded from sales price. Per rule 327.4, for non-direct mail, a state can impose a delivery charge on one or both of the following: (1) handling, crating, packing, preparation for mailing or delivery, and similar charges; and (2) transportation, shipping, postage, and similar charges.*

#### **3.1 – Taxability of Delivery Charges**

Are delivery charges subject to the State’s sales/use tax?

#### **3.2 Return of Goods—No Refund of Delivery Charges**

a. When a good is returned to the seller, the seller does not refund/credit the purchaser the amount charged for the delivery of a returned good. Is such a return subject to a full sales/use tax refund?

b. If State taxes delivery charges, please answer yes and indicate the charges are taxable in the comments.

#### **3.3 Return of Goods—Separate Transaction Delivery Charge**

a. Seller refunds/credits entire transaction in a return; however, in a separate transaction, seller charges the purchaser the delivery fee for the return of purchased goods. Is such a return subject to a full sales/use tax refund?

b. If the state taxes delivery charges, please answer yes and indicate the charges are taxable in the comments.

#### **3.4 Return of Goods—Delivery Charge Only Imposed on Returned Goods**

a. Seller does not charge purchaser a delivery charge for the initial sale; however, if an item is returned, seller imposes a delivery charge on return. Seller reduces the purchaser’s refund amount by the shipping and handling fee. Is such a return subject to a full sales/use tax refund?

b. Is the answer the same if the seller provides a credit on the original transaction and charges the purchaser separately for the delivery charge?

c. If State taxes delivery charges, please answer yes and indicate the delivery charges are taxable in the comments.

#### **4 Exchanges**

*For purposes of this section, an “exchange” is when a purchaser returns a product to have it replaced with a similar item (e.g., different size or color) or a different item which may have a higher or lower price.*

##### **4.1 Exchange-No Price Difference**

In an exchange transaction with no price difference, does it matter for sales/use tax purposes whether the seller simply exchanges the item for no charge or exchanges the item by providing a credit on the original transaction and charging the purchaser separately for the exchanged good?

##### **4.2 Exchanges—Replaced with Higher Priced Good**

a. In an exchange with the replacement item having a higher price, does it matter for sales/use tax purposes whether the seller simply exchanges the item and charges the purchaser the difference in price (including tax)?

b. Is the answer the same if a seller provides a credit on the original transaction and charges the purchaser separately for the replacement good?

##### **4.3 Exchanges—Replaced with Lower Priced Good**

a. In an exchange with the replacement item having a lower price, does it matter for sales/use tax purposes whether the seller simply exchanges the item and refunds the purchaser the difference in price (including tax)?

b. Is the answer the same if a seller provides a credit on the original transaction and charges the purchaser separately for the replacement good?

#### **5 After Sales Discounts for Cause**

##### **5.1 After Sales Discount for Cause–Cosmetic Damage—Cash**

Consumer purchases tangible personal property and discovers after purchase that tangible personal property has cosmetic damage. The damage doesn't affect the tangible personal property's function, only its appearance. In lieu of return of the tangible personal property, seller refunds to the consumer a cash amount less than

full sales price.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$100. Due to cosmetic damage, and pursuant to the seller’s return policy, the consumer returns the tangible personal property for \$90.

Does member state allow seller to claim credit for or seek refund of sales or use tax paid based on: (i) the original sales price of \$100 (\$6 tax); (ii) the \$90 actually refunded to the customer (\$5.40 tax); or (iii) deny such credit/refund in full.

### **5.2 After Sale Discount for Cause—Cosmetic Damage-Certificate**

Consumer purchases tangible personal property and discovers after purchase that tangible personal property has cosmetic damage. The damage doesn’t affect the tangible personal property’s function, only its appearance. In lieu of return of the tangible personal property, seller refunds to the consumer some amount less than full sales price in the form of a certificate or other document that allows the consumer a reduction on a future transaction.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$100. Due to cosmetic damage, and pursuant to the seller’s return policy, the consumer returns the tangible personal property for a gift certificate equal to \$90. Per the member state’s sales tax law, seller will collect applicable tax on the redemption of the gift certificate. [Note: Query whether we should address treatment of digital codes.]

Does member state allow seller to claim credit for or seek refund of sales or use tax paid based on: (i) the original sales price of \$100 (\$6 tax); (ii) the \$90 gift certificate amount given to the customer in lieu of cash refund (\$5.40 tax); or (iii) deny such credit/refund in full.

### **5.3 After Sale Goodwill Discount**

After purchase of tangible personal property consumer has issue not related to the performance or quality of the tangible personal property but a problem with the experience surrounding the purchase. In order to retain customer seller gives customer a gift card or other certificate entitling customer to a discount on a future purchase.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$100. To foster goodwill with the consumer, and pursuant to the seller's return policy, the seller allows the consumer return of the tangible personal property for a gift certificate equal to \$90. Per the member state's sales tax law, seller will collect applicable tax on the redemption of the gift certificate. **Note: Query whether we should address treatment of digital codes.]**

Does member state allow seller to claim credit for or seek refund of sales or use tax paid based on: (i) the original sales price of \$100 (\$6 tax); (ii) the \$90 gift certificate amount given to the customer in lieu of cash refund (\$5.40 tax); or (iii) deny such credit/refund in full.

## **6 Price Match Guarantee**

### **6.1 Price Match Guarantee—Full Refund**

Seller offers consumers the [[what about partial]] refund of consumer's purchase price if consumer (after purchase) presents proof of lower price offered by a competitor. Seller refunds the full purchase price on the original transaction. Accordingly, the seller refunds the total tax collected on the sale, \$12 based on the member state's 6% tax rate. **[Note: Does the seller keep the item?]**

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$200 from a seller that adopts a price match guarantee. After the sale, consumer notices a competitor's ad for the same item for \$150. Per the seller's price match guarantee, the consumer presents the competitor's ad and returns the item for a full refund. The seller refunds \$12 tax collected from the consumer on the original transaction. Is a \$12 credit allowed on the seller's return?

Same facts as above, but in lieu of cash, the seller provides a gift certificate equal to \$200 to the consumer. Does the gift certificate change the member state's answer?

Further in the alternative, the seller provides the consumer store credit of \$200. Does the store credit change the member state's answer?

If credit/refund is allowed for any of the above scenarios, please answer yes and indicate any differences in the comments. If no, please indicate the proper

treatment of these transactions, with authority, in the comments section.

## **6.2 Price Match Guarantee—Partial Refund**

Same facts as 6.1 except seller refunds to consumer part of the original purchase price in cash.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$200 from a seller that adopts a price match guarantee. After the sale, consumer notices a competitor's ad for the same item for \$150. Per the seller's price match guarantee, the consumer presents the competitor's ad for a cash refund of the difference, or \$50. The seller partially refunds \$3 tax collected from the consumer on the original transaction. Is a \$3 credit allowed on the seller's return?

Same facts as above, but in lieu of cash, the seller provides a gift certificate equal to \$50 to the consumer. Does the gift certificate change the member state's answer?

Further in the alternative, the seller provides the consumer store credit of \$50. Does the store credit change the member state's answer?

If credit/refund is allowed for any of the above scenarios, please answer yes and indicate any differences in the comments. If no, please indicate the proper treatment of these transactions, with authority, in the comments section.

## **7 Earned Retailer Discounts**

Seller gives consumer a certificate good for \$10 off subsequent purchases for each \$50 spent. Customer purchases \$50 of goods for \$40 by using a \$10 certificate. Customer returns \$10 of goods and receives \$8 refund (\$10-\$2 certificate). tangible personal property that earned a discount certificate and seller deducts the discount certificate amount from the refund.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?