

Streamlined Sales Tax - SLAC
Post Transaction Disclosure

The following disclosure questions are based on this **original fact pattern**:

Seller makes a \$100 sale in January, 2015 that is subject to the 5% state and 1% local sales tax for a total of 6%.

Seller collects \$106 from the customer.

Seller records the \$100 sale and remits \$6 in sales tax owed to the state and local jurisdiction.

Customer returns the product at a later date.

The following disclosure questions:

- 1. Do not apply to sales of motor vehicles; and*
- 2. Intend that the word "tax" means the sales or use tax paid by the customer to the seller, and remitted by the seller to the state*

STATE: _____

Example 1

State A has a definition for what constitutes "returned merchandise" that impacts its responses to its disclosed practices for post-transaction issues. State A provides a cite to its definition and provides comments on its procedure in the comment section of the disclosed practice.

1. Does your state have a special definition and/or procedure for sellers claiming credit for tax refunded back to a customer? If so, please provide describe in the comments.

Yes // No // Comments

Example 2

What initiates the statute of limitations for a seller or customer to obtain a refund of the tax paid to a state differs state by state. For example, some states use the date the tax return was due, others use the date when the tax payment was due (which is different from the return's due date), and lastly, some states base it on when the tax was paid to the state [[date paid or return due date, whichever is later??]].

- 2.A. Is the trigger for starting the statute of limitations for a seller making a refund request to the state based on the due date of the return tax for the tax collected by the seller from the customer making the return?

Yes // No // Comments

B. Is the trigger for starting the statute of limitations for a seller making a refund request to the state based on when the tax payment was due (which is different from the due date of the return) for the tax collected by the seller from the customer making the return?

Yes // No // Comments

C. Is the trigger for starting the statute of limitations for a seller making a refund request to the state based on when the tax was actually paid to the state [[or the due date of the return, whichever is later]] for the tax collected by the seller from the customer making the return?

Yes // No // Comments

D. If you answered “no” to 2.A. to 2.C., please indicate “yes” and provide the trigger for starting the statute of limitations in the comments section.

Yes // No // Comments

Example 3

Most states have either a three- or four-year statute of limitation for refunds after the trigger date for starting the statute of limitations period.

3.A. Does your state have a three-year statute of limitations for a seller to make a refund request to the state from a customer returning a product?

Yes // No // Comments

B. Does your state have a four-year statute of limitations for a seller to make a refund request to the state from a customer returning a product?

Yes // No // Comments

C. If the answer to 3.A. and 3.B. was no, please indicate “yes” and provide your state’s time period for a seller to make a refund request to the state in the comments.

Yes // No // Comments

Example 4

Five years after purchasing an item, customer returns the item to the seller. Seller gives the customer a full refund, including the tax. State A has a four-year statute of limitations based on payment of the tax and responds to seller that it cannot give the seller a refund of the tax. State B looks at the return as a rescission of a contract and provides the seller with a refund because it was done before the state's statute of limitations expired.

4. Does your state look at a customer's return of a product as being a rescission of the contract and the statute of limitations starts from that period of time for a seller to claim a refund from the state?

Yes // No // Comments

Example 5

Seller only retains electronic sales receipts and return receipts which denote date of purchase/return, product purchased/returned, and tax collected/refunded. State A says that is sufficient documentation to support refund requests.

5. Absent a concern with fraud, is a seller's paper or electronic sales receipt showing tax was charged sufficient documentation to establish and support that a customer paid sales tax and allow the seller to receive a refund of the tax from the state?

Yes // No // Comments

Example 6

Customer buys a product in January which the seller remits the tax on its January return filed in February. Customer subsequently returns the product in March to the seller and obtains a full refund, including tax. State A allows the seller to claim a credit on the seller's March return filed in April. State B requires the seller to amend its January report and request a refund.

6.A. Can a seller obtain a refund from the state when a customer returns the product in a different period from when the sale was made (e.g., return was made in March, 2015) on the report it files for the period the return was made (e.g., March, 2015 report)?

Yes // No // Comments

B. If the answer to 6.A. was "no," can the seller file an amended report for the January, 2015 tax period?

Yes // No // Comments

C. If both responses above are "no," please indicate "yes" and explain your state's procedure in the comment section.

Yes // No // Comments

Modify the original fact pattern by adding that the seller imposes a 20% fee or \$20 (\$100 x 20%) to return a product. As applicable, sales tax will be imposed on the fee if the state imposes the tax on such fee. This additional charge is netted against the refund provided to the purchaser.

Example 7

Seller imposes a 20% restocking fee for the return of a product. When providing the refund, the seller's refund to the customer is for the full amount of the purchase, including tax, less the restocking fee (and any applicable taxes). State A still considers that a refund of the tax and will allow a full refund (less any tax owed on the fee). State B indicates that the refund transaction must be for the full amount, but will allow the seller to still obtain a refund from the state if the seller imposes the restocking fee as a separate transaction.

7. A. Some states do not allow a seller to claim a refund with the state if the seller reduces the refund it provides a purchaser to cover a restocking fee, delivery charge, use of the product (e.g., wear and tear), etc. Can the seller claim a refund from the state if the seller subtracts the charge, including any applicable tax, from the refund provided to a customer (i.e., the refund is net of the charge)? If your state has exceptions, please note that response in 7.C.

Yes // No // Comments

B. If the answer to A was “no,” can the seller obtain a refund from the state if it provides a full refund, including the sales tax, but subsequently imposes the charge (and imposing any applicable tax) to the customer as a separate transaction?

Yes // No // Comments

C. Does the state have any exceptions that allows a seller to claim a refund when a full refund is not provided to a customer (e.g., delivery charges)? If “yes,” please indicate the exception(s) in the comments.

Yes // No // Comments

Modify the original fact pattern adding that the customer returns the product for an even exchange.

Example 8

Seller accepts a return; however, instead of giving a cash refund or crediting the customer's charge card, a store gift card is provided for the entire purchase amount, including tax. State A still considers that a full refund of the tax.

8. Can a seller still claim a refund from the state if the customer is only refunded with store credit (e.g., gift card) in the amount of \$106 (\$100 + \$6 tax)?

Yes // No // Comments

Modify the original fact pattern adding that the customer exchanges the \$100 product for a product with a selling price of \$150.

Example 9

Seller accepts a return from a customer that at the time of the return also elects to purchase another item for \$50 more (\$50 plus \$3). The seller only collects the tax on the additional \$50 and timely remits that tax to the state. That procedure is compliant with State A's law. Similarly, if the customer purchases a product that costs \$50 less, the state will allow the seller to claim a refund from the state on the net amount (\$50 plus \$3).

9.A. Will the seller be in compliance with the state's tax law if the seller only collects and remits the additional sales tax on the price difference of a returned product when the replacement product costs more?

Yes // No // Comments

B. Will the seller be in compliance with the state's tax law if the seller claims a refund from the state for the price difference of a returned product when the replacement product costs less?

Yes // No // Comments

Modify the original fact pattern such that the customer does not return the product, however, the customer subsequently tells the seller its purchase was not taxable. Seller is unsure if refund should be issued, but agrees to submit refund claim and refund the customer if the state agrees the tax is not owed.

Example 10

After completing a transaction, seller is notified by customer that the transaction was not taxable. Seller agrees to file a refund claim and lets the customer know if the state approves the refund request. State A will process the refund to the customer without the seller entering into a formal agreement to pay the customer the refund. State B will also process a refund to the seller, however, the seller must enter into a formal agreement with the customer to give the refund to the customer.

10. A. Can the seller receive a refund of the tax from the state prior to refunding the tax to a customer that alleges the tax was not due without paying the tax first back to the customer (and not having a formal agreement to refund the tax back to the customer)?

Yes // No // Comments

B. If the answer to 10.A is “no,” can the seller obtain a refund from the state if it has a formal agreement with the customer that the seller will give the tax refund to the customer?

Yes // No // Comments

Modify the original fact pattern such that the customer does not return the product but only pays the seller \$100; claiming the product is exempt. The seller, however, has already remitted the tax to the state.

Example 11

Seller is in a short-pay situation, the customer refuses to pay the invoiced sales tax for a product, claiming it is exempt from the tax. Seller files for a refund, providing the customer’s reasons for why the tax is not owed. If the state agrees the tax was not owed, State A will process the refund to the seller.

11.A. Can the seller obtain a refund of the tax paid to the state if the customer correctly asserted the product was exempt? If “yes,” please provide the documentation a seller needs to support the customer’s claimed exemption from the tax in the comment section.

Yes // No // Comments

Using the original fact pattern, in addition, the customer returns the merchandise to a different taxing jurisdiction, i.e., different city, county or state.

Example 12

Customer buys a product in State A and returns the product to seller’s location in State B. When processing the return in State B, seller refunds full amount of State A’s tax to the customer and claims a refund for the tax to State A. This is compliant with State A’s law. In addition, seller has multiple stores in State A, which also has local taxes. For local taxes, State A still requires a refund of the tax based on the location of the store where the product was purchased, not the return location.

12. A. The customer has the original sales receipt indicating the tax was paid to your state. While the product is not returned to your state, will your state allow the seller to claim the

refund of the tax paid to your state, regardless where the product was returned? If “no,” please explain procedure in the comment section.

Yes // No // Comments

B. If your state has local taxes, are there any special rules for instate returns that differ from your response in 12.A.? If “yes,” please provide details in comment section.

Yes // No // Comments

Example 13

Customer returns a product to a seller without a receipt. Seller’s policy is to provide a store credit for the product based on its current selling price in the store, plus the tax rate at that store. State A allows seller to claim a refund of the tax when that return is made without an invoice from the customer.

13. A. When a customer does not have the original sales receipt, the seller’s policy is to provide a refund (or store credit) to its customers for the current selling price of the product at the return store location, plus the tax based on the rate at that location. Will your state allow the seller to receive a refund or credit from the state based on this policy? If there is any special documentation the seller needs to provide the state, please provide that information in the comment section.

Yes // No // Comments

B. If the answer to 13.A. is “no,” is that based on statutory law or case law? If “yes,” please provide statutory or case law in the comments.

Yes // No // Comments

Example 14

Customer either cannot find a seller or the seller refuses to file a refund claim on behalf of the customer. State A allows the customer to file a refund claim directly with the state.

14. A. Does the state have a procedure that allows the customer to request a refund of tax paid to a seller directly from the state (*i.e.*, buyer’s claim for refund)? If “yes,” please describe the circumstances and process in the comments.

Yes // No // Comments