

Streamlined Sales Tax - SLAC Disclosed Practice Number 4 - Post Transaction Issues

Note: These tax administration practices address various scenarios that may occur after the initial sale has taken place, including scenarios in which customers are returning or exchanging products. The practices are intended to provide general guidance on how a seller can properly issue a tax refund to the customer and also obtain credit from the state for the refunded amount. The disclosed practices also include the statute of limitations period that applies to returned products^[JA1], when (and if) a seller can claim a credit on returned product(s) versus filing an amended tax return, exchanges, restocking fees, and freight and handling charges^[FN2]... (ADD MORE AS NEEDED – INDEX NEEDED??)

Unless indicated otherwise throughout Disclosed Practices 4:

- Use of the word “tax” means the sales or use tax paid by the customer to the seller which was timely remitted by the seller to the state;
- The tax rates used in the examples are for illustrative purposes only and ~~are presumed~~ are presumed to be correctly computed;
- The seller is not engaged in fraud or making intentional ~~misrepresentations;~~ and misrepresentations; and maintains proper books and records to substantiate taxes collected and remitted based on the applicable state’s requirements;
- Do not apply to sales of motor vehicles;
- Apply to products voluntarily returned by the customer ~~to the~~ and accepted by the seller (e.g., ~~does not include repossessed products~~ or abandoned products)- and;
- **The disclosed practices only provide general guidance and assume there are no other unique circumstances that apply.**

Disclosed Practice 4.1 – Refund Procedure Document

Explanation: Some states have written procedures on their websites to explain how sellers and customers can properly obtain a refund of tax when a product is returned to the seller or subsequently determined to not be taxable.

Post Transactions 4.1 - Does your state have written guidance on your website, or otherwise, that explains how sellers and/or customers can properly obtain a refund from your state? (If “yes”, please provide a website link and/or indicate how a person can obtain guidance in the comments.)

Disclosed Practice 4.2 - Initiation of the State’s Statute of Limitations for Returned Products

Explanation: When a state’s statute of limitations begins for a seller to claim a refund of tax paid on returned products varies. It can be based on when the initial transaction takes place, when the tax on that transaction was paid by the seller to the state, when the tax return on which the tax is reported to the state was due, or when the seller actually paid the tax to the state.

Example A

- Seller is located in your State and makes a \$100 sale on January 21, 2016, of one product.
- Customer takes possession of the product in your State.
- The transaction is subject to a 6% sales tax, including any applicable local sales taxes^[JA3].
- Seller collects \$106 from the customer.
- Seller reports the \$100 sale and timely remits the \$6 in sales tax owed to the state and local jurisdiction on its January tax return which was due on February 20, 2016^[JA4].
- Customer returns the product on March 25, 2016, for a full refund of the purchase price (\$100) and sales tax paid to Seller (\$6).
- The Seller makes a request for a refund/credit of the \$6 in tax with your State after having refunded the sales tax to the customer.

Disclosed Practice 4.2 - *When does your State’s Statute of Limitations begin for returned products?*

Post Transactions 4.2.A - It begins on the due date of the tax return on which the tax was required to be paid by the seller to the state (February 20, 2016, in Example A above).

Post Transactions 4.2.B - It begins on the date the tax on the sale was actually due by the seller to the state (February 20, 2016, in Example A above).

Post Transactions 4.2.C - It begins on the date the tax was actually remitted to the state (or the due date of the tax return, whichever is later) (February 20, 2016, in Example A above).

Post Transactions 4.2.D - It begins on the date the customer returns the product to the seller and receives the refund from the seller (March 25, 2016, in Example A above).

Post Transactions 4.2.E - Other – If the state’s answers to 4.1.A – 4.1.D. were all “no”, check “yes” and explain when the statute of limitations for a returned product begins in the comments section.

Disclosed Practice 4.3 –Statute of Limitations for Returned Products

*Explanation: Most states have either a three- or four-year statute of limitation for refunds related to when a customer returns a product(s). However, some states view returned product(s) as a **rescission of a contract** which triggers the start of the statute of limitations.*

Example B

- Seller is located in your State and makes a \$100 sale subject to a 6% sales tax, including any applicable local sales taxes on January 4, 2016.
- Seller collects \$106 from the customer.
- Seller reports the \$100 sale and timely remits the \$6 in sales tax owed to the state and local jurisdiction on its January tax return which was due on February 20, 2016.
- Customer returns the product on May 25, 2021, for a full refund of the purchase price (\$100) and sales tax paid to Seller (\$6).

- The Seller makes a request for a refund/credit of the \$6 in tax with your State after having refunded the sales tax to the customer.

Disclosed Practice 4.3 – *How long is your state’s statute of limitations time period for a seller to claim a tax refund on products returned by a customer?*

Post Transactions 4.3.A. - A three-year statute of limitations (based on the state’s response in 4.2) for a seller to make a refund request to the state. Therefore, it is past the state’s statute of limitations for the seller to claim refund from the state.

Post Transactions 4.3.B. - A four-year statute of limitations (based on the state’s response in 4.2) for a seller to make a refund request to the state. Therefore, it is past the state’s statute of limitations for the seller to claim refund from the state.

Post Transactions 4.3.C. – The returned product is treated as a rescission of the sale on the date the product was returned (5/21/2021). Therefore, the seller is within the state’s statute of limitations to claim refund from the state.

Post Transactions 4.3.D. – If the answers to 4.3.A. to 4.3.C. were “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.

Disclosed Practice 4.4 – Documentation to Prove Refund of Tax to Customer

Explanation: States differ on what records are required to be retained to prove sales tax was paid by the customer and refunded to the customer. Note: a state’s answer to this question does not impact the use of sampling, as authorized by the state, in an audit to ascertain liability.

Example C

Seller retains the paper or electronic sales and credit/refund receipts which denote:

- Product purchased
- Date of product purchased,
- Tax collected, and
- Product returned,
- Date product returned, and
- Tax refunded.

Disclosed Practice 4.4 - *Will your state accept the seller’s paper or electronic sales receipts showing sales tax was charged and refunded as sufficient documentation to establish and support that a customer paid sales tax?*

Yes // No // Comments

Disclosed Practice 4.5 – Credit on Tax Return, Subsequent Tax Return or Refund Claim

Explanation: States vary on how they will allow a seller to claim credit for tax refunded to its customers. Some states will allow a credit on the tax return if the product return was made prior to the tax return being filed. Other states, subject to a state’s statute of limitations, will allow a credit to be claimed on a subsequent tax return filed by a seller. And, some states require a seller to file an amended tax return/refund claim to claim a credit.

Disclosed Practice 4.5.A. - Does your state allow a seller to take a credit on its tax return if the product was returned prior to the seller filing its tax return to report the original sale?

Yes // No // Comments

Disclosed Practice 4.5.B. - Subject to the state’s statute of limitations, does your state allow a seller to take a credit during the reporting period when the product was returned if the product is returned in a different reporting period than the original sale?

Yes // No // Comments

Disclosed Practice 4.5.C. – Subject to the state’s statute of limitations, does your state require the seller to file an amended tax return and/or refund claim when the product is returned after the seller filed its tax return to the state to report the original sale?

Yes // No // Comments

Disclosed Practice 4.5.D. – If the answers to 4.5.A. to 4.5.C. were “no” please indicate “yes” and explain your state’s procedure in the comment section.

Yes // No // Comments

Disclosed Practice 4.6 - ÷ Full Refund or Allow Offset for Other Charges Restocking Fee for the Return of a Product

The original fact pattern is modified for question 5 as follows:

The seller imposes a 20% fee or \$20 (\$100 x 20%) fee to return a product.

• — |

{FNS}

Example 5

- *Explanation: Some states have a general requirement that a seller must provide a customer with a full refund of the sales price and associated tax of product returned. Other states will allow sellers to offset a refund for ~~other~~ service charges (e.g.*

restocking/return fees^[CP6] to make the return (with any applicable tax on those charges being required to be collected and remitted by the seller).

- These service charges, addressed above, are for restocking the product but do not represent wear and tear of a product being returned. “Wear and Tear” are not addressed within this disclosed practice.^[CP7]

Example D

- Seller is located in your State and makes a \$100 sale of one product;
- The transaction is subject to a 6% sales tax, including any applicable local sales taxes;
- Seller collects \$106 from the customer and remits the \$6 of tax to the state;
- Customer returns the product and the seller imposes a return fee of 10% of the sales price (such fee taxable by the state - $\$10 \times 6\% = 0.60$ cents tax).^[CP8]
- State A – requires full refund – seller is allowed to obtain credit if its issues a complete refund for \$106. It is allowed in a separate transaction to separately invoice and collect the \$10 return fee and 0.60 cents in tax owed by the customer (\$10.60). (If State A did not impose its tax on the return fee, the customer would only be charged \$10.00.)
- State B – allows offset - seller is allowed to obtain credit when there is only one return transactions that nets the \$106 refund owed to the customer with \$10 fee and 0.60 cents in tax owed by the customer. Customers receives a refund of \$95.40 in one transaction. (If State B did not impose a tax on the return fee, the customer would be refunded \$96.00.)
- ^[CP9]
— 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.

Disclosed Practice 4.6.A- 5.A. Does your state allow the seller to obtain a refund from the state if the seller offsets any charges imposed by the seller to make a return (understanding the tax must be collected on any taxable charges) subtracts the fee charged to return the product, 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 4.65.C.^[FN10]

Yes // No // Comments

Disclosed Practice 4.6.B^{[FN11].1-B.} If the answer to A was “no,” -does your state allow the seller to obtain a refund from the state if it provides a full refund, including the sales tax, but

subsequently imposes any additional charges ~~the charge~~ (and imposing any applicable tax) to the customer as a separate transaction? *If your state has exceptions, please note that response in 4.6.C.*

Yes // No // Comments

Disclosed Practice 4.6.B.2 ~~CC~~ - Does your state have any exceptions that allow or disallows a seller to claim a refund when a full refund is not provided to a customer (e.g. delivery charges or not allowing a refund on the net amount)? If “yes,” please indicate the exception(s) in the comments^[FB12].

Yes // No // Comments

Disclosed Practice 4.6.C – Does your state impose a sales tax on restocking fees or return fees that are not directly associated with the use, including wear and tear, of a returned product?

Yes // No // Comments

Possibly may need to address “wear and tear” separately, in a new disclosed practice.
Disclosed Practice 4.6.D – Does your state impose a sales tax on wear and tear of a product? If so, is it taxable?

Yes // No // Comments

Disclosed Practice 4.7: Cash/Credit Refund versus Store Credit Please title me~~The original fact pattern is modified for question 6 as follows:~~

- ~~The customer returns the product for an even exchange of store credit.~~

Example 6

Explanation: Some sellers when accepting a returned product will not provide a cash or credit a customer’s credit card or debit card. I; however, instead of giving a cash refund or crediting the customer’s charge card, a store gift card/voucher is provided for the entire purchase amount, including tax. State A still considers that a full refund of the tax.

Disclosed Practice 4.7.A- 6- Does your state allow the seller to claim a refund from the state if the customer is given store credit (e.g., gift card) in the amount of \$106 (\$100 + \$6 tax)?

Yes // No // Comments

Disclosed Practice 4.8: The original fact pattern is modified for question 7 as follows:

- ~~The customer exchanges the \$100 product for a product with a selling price of \$150.~~ **Contemporaneous Return and Sale Please title me**

Example 7

Explanation: With some returns, a seller may accept a returned product from a customer that at the time of the return, the customer ~~ed product also~~ elects to purchase another ~~item product~~ for \$50 more (\$50 plus \$3). This disclosed practice addresses whether a state will allow certain procedures to be used to collect additional tax or refund tax from a returned product and a customer's contemporaneous purchase of another product. ~~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).~~

Example E is needed here

Disclosed Practice 4.8.A- 7.A.—Does your state allow the seller to only collect and remit the additional sales tax on the price difference of a returned product when the replacement product costs more?

Yes // No // Comments

Disclosed Practice 4.8.B- B.—Does your state allow seller to obtain a refund from the state for the price difference of a returned product when the replacement product costs less?

Yes // No // Comments

Disclosed Practice 4.9: Please title me

The original fact pattern is modified for question 8 as follows:

- ~~The customer does not return the product; however, the customer subsequently tells the seller its purchase was not taxable. The seller is unsure if the refund should be issued, but agrees to submit the refund claim and refund the customer if the state agrees the tax is not owed.~~

Example 8

Explanation: AAfter 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 written agreement to pay the customer the refund. State B will also process a refund to the seller; however, the seller must enter into a written agreement with the customer to give the refund to the customer.

Disclosed Practice 4.9.A- 8.—Does your state require the seller to refund the tax to the customer prior to obtaining a refund^[FB13] from the state?

Yes // No // Comments

Disclosed Practice 4.10: Please title me

~~The original fact pattern is modified for question 9 as follows:~~

- ~~• The customer does not return the product but only pays the seller \$100; claiming the product is exempt. The seller has already remitted the tax to the state.~~

Example 9

Explanation: ~~S~~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.

Disclosed Practice 4.10.A- 9- 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 indicate the documentation a seller needs to support the customer's claimed exemption from the tax in the comment section. Need to verify what the question that needs to be answered is – maybe it is strictly about the documentation. Fred will verify.

Yes // No // Comments

Disclosed Practice 4.11: Please title me

~~The original fact pattern is modified for question 10 as follows:~~

- ~~• The customer returns the merchandise product to a different taxing jurisdiction, i.e., different city, county or state.~~

Example 10

Explanation: ~~C~~Customer buys a product in State A and returns the product to seller's location in State B. When processing the tax 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.

Disclosed Practice 4.11.A- 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

Disclosed Practice 4.11.B- B- If your state has local taxes, are there any special rules for in-state ~~returns~~ returned product that differ from your response in ~~4.11+2~~.A.? If “yes,” please provide details in comment section.

Yes // No // Comments

Disclosed Practice 4.12: Please title me

Example 11

*Explanation: C*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~~ the product is returned ~~is made~~ without an invoice from the customer.

Disclosed Practice 4.12.A-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 location the returned product is taken to ~~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.

Warren noted, if a state has a 30,60,90 day refund rule then that state will not allow this type of refund as there is no proof of the timing.

RI & MI would not allow a refund without any receipt.

Yes // No // Comments

Disclosed Practice 4.12.B- B- If the answer to ~~4.12+3~~.A. is “no,” is that based on statutory law, regulation, or case law? If “yes,” please provide statutory or case law in the comments.

Yes // No // Comments

Disclosed Practice 4.13: Please title me

Example 12

*Explanation: C*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.

Disclosed Practice 4.13.A- 14- 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.

Need to modify the question to indicate two questions – 1) can the purchaser-customer skip the seller & go to the state for a refund where tax should not have been charged; and 2) the purchase should not have been taxed & the seller no longer exists, can the purchaser-customer get a refund from the state.

Business to business transaction

What about citizen customer

Sec 325 of the agreement
Yes // No // Comments

DRAFT