

Option 1 (Pat Calore's Version w/ Comments)

Disclosed Practice 4.6.A Does your state require the retailer to return to a customer the full purchase price including the sales tax in order for the retailer to obtain a refund/credit of the sales tax returned to a customer?

- Majority of states will respond no. Ohio will say yes.

Disclosed Practice 4.6.B Can a retailer obtain a refund/credit from the state if a retailer only provides a partial return to a customer of the purchase price, and the proportionate sales tax?

- Majority of states will respond yes.

Disclosed Practice 4.6.C If yes to 4.6B, does it matter whether the partial return to the customer was due to a fee assessed by a retailer for a service (e.g. restocking) or a fee for use of the product by the customer (e.g. wear and tear)?

- I suspect a majority of states will respond yes, a service would not be taxable, use would be.

Disclosed Practice 4.6.D Does the separate fee have to be itemized?

- I suspect many states will respond that it only really matters if the fee is for a nontaxable service in which case it would need to be itemized or the retailer would need to be able to provide appropriate records to substantiate the nature of the fee (e.g. a written store policy).

Disclosed Practice 4.6.E Does it matter whether the retailer imposed fee is itemized on the same invoice or does it have to be on a separate invoice?

- I suspect many states will respond that having two separate invoices is not controlling since it's a substance over form analysis. What matters is what the fee was imposed for.^[CP1]

Option 2 (Fred Nicely’s Version w/ Comments) Have Ohio explain their situation

Disclosed Practice 4.6 – Returned Product Invoicing Requirement for Seller to Obtain Refund/Credit from the State (If the seller does not refund the entire purchase price...)

Explanation: Some states have a general requirement that a seller must provide a customer with a “full refund” of the sales price, including tax, for the state to provide the seller credit for the tax it refunded to a customer. If there is an offsetting charge on the invoice (or similar document) for the seller to accept the return, the customer has not received a “full refund” and the state will not be able to provide the seller credit for the tax refunded back to its customer. In contrast, other states will allow sellers to offset a refund provided to a customer on the invoice (or similar document) for offsetting charges imposed by a seller to accept a return.

Example D.1.

- 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);
- The seller does not separately impose the return fee in a separate transaction; instead, the seller notes on the invoice the \$10 return fee and additional 0.60 cents tax, for a total refund to the customer of \$95.40.

Disclosed Practice 4.6.A- Does your state allow the seller to obtain a refund from the state if the seller on the invoice documenting the returned product also, using the same document (*i.e.*, not a separate transaction), reduces the refund made to its customer by the charges it imposes for it to accept the returned product? (If your state, in general, does not allow separate charges to be imposed on the invoice documenting the return, but has exceptions (*e.g.*, delivery charges), please indicate “no” and provide those exceptions in the comments area.)

Yes // No // Comments

Example D.2.

- Same as Example D.1.; however, the seller separately imposes the return fee in a separate transaction. For the returned product transaction, the seller’s invoice provides the customer with a \$106.00 refund. In a separate transaction, the seller invoices the \$10 return fee and additional 0.60 cents tax, for a total of \$10.60.

Disclosed Practice 4.6.B- If your state answered “no” to disclosed practice 4.6.A., does your state allow the seller to obtain a refund from the state if the seller on the invoice documenting the returned product provides a full refund, with the customer also agreeing the seller will impose a return fee using a separate transaction (different invoice)?

Disclosed Practice 4.7 – Taxability of Fees Imposed by Sellers on Returned Products

Explanation: Some sellers impose a fee for a customer to return a product. Some fees are imposed to cover administrative costs of accepting a returned product while other fees may be associated with a wear and tear or damage to a returned product.

Disclosed Practice 4.7 – Does your state impose its sales tax on restocking fees or return fees that only cover the administrative costs of accepting a return (e.g., process the return and restocking) and are not directly associated with the use, including wear and tear or damage, of a returned product?

Yes // No // Comments

{Question – should we ask about fees for damage or wear and tear?}