

A motion by Indiana to amend the definition of “sales price” in the Streamlined Sales and Use Tax Agreement to allow certain exclusions for federal taxes and read as follows:

Appendix C--Library of Definitions, SSUTA (10-8-14), pgs. 94-95

“Sales price” applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property sold;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges; and
- F. Credit for any trade-in, as determined by state law.

Notwithstanding (B) above, a state may elect, by statute or administrative regulation, to exclude from sales price the following types of taxes:

1. Any or all state and local taxes on a retail sale that are imposed on the seller if the state statute authorizing or imposing the tax provides that the seller may, but is not required, to collect such tax from the consumer. If there is no state statute authorizing or imposing the local tax, the language in the local ordinance will determine if the local tax may, but is not required, to be collected from the consumer; and/or
2. Tribal taxes on a retail sale that are imposed on the seller if the Tribal law authorizing or imposing the tax provides that the seller may, but is not required, to collect such tax from the consumer.

~~Such exclusion from sales price shall be listed on the state's taxability matrix. The~~

Under paragraphs 1 and 2, the exclusion of a specific tax from sales price may not be based on the type of consumer or product sold.

3. One or more of the following excise taxes imposed by the United States:

- a) Diesel fuel and special fuels excise taxes under 26 U.S.C. § 4041;
- b) Gas guzzler tax excise tax under 26 U.S.C. § 4064;

- c) Tire excise tax under 26 U.S.C. § 4071; or
- d) Heavy truck and trailers sold at retail excise tax under 26 U.S.C. § 4051.

Under paragraph 3, the exclusion of a specific tax from sales price may not be based on the type of consumer.

All exclusions from sales price shall be listed on the state's taxability matrix. Unless a seller seeks an exclusion from sales price, a seller is not required to separately state any of these taxes under paragraphs 1, 2, or 3 on the invoice, bill of sale or similar document given to the purchaser. ~~States~~ A state may exclude from "sales price" the amounts received for charges included in paragraphs (C) through (F) above, if they are separately stated on the invoice, billing, or similar document given to the purchaser. ~~States~~ A state may exclude from (C) above, "telecommunications nonrecurring" charges" if they are separately stated on the invoice, billing or similar documents. A state doing so must define "telecommunications nonrecurring charges" as follows:

"Telecommunications nonrecurring charges" means an amount billed for the installation, connection, change or initiation of "telecommunications service" received by the customer.

"Sales price" shall not include:

- A. Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
- B. Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; and
- C. Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser.

"Sales price" shall include consideration received by the seller from third parties if:

- A. The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
- B. The seller has an obligation to pass the price reduction or discount through to the purchaser;

C. The amount of the consideration attributable to the sale is fixed and determinable by the 21 seller at the time of the sale of the item to the purchaser; and

D. One of the following criteria is met:

1. The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
2. The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a “preferred customer” card that is available to any patron does not constitute membership in such a group), or
3. The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

States may also exclude from “sales price” either employee discounts that are reimbursed by a third party on sales of motor vehicles, or manufacturer rebates on motor vehicles, or both.