

# Motion by Minnesota and South Dakota to adopt the following disclosed practices to Appendix E of the Agreement related to Post Transaction Issues

## Streamlined Sales Tax – SLAC Disclosed Practice Number 5 - 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 obtain a refund or credit from the state for the tax refunded to a customer.

Unless indicated otherwise throughout Disclosed Practice 5:

- 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;
- Use of the word “refund” includes a credit unless otherwise stated;
- The tax rates used in the examples are for illustrative purposes only and are presumed to be correct;
- The seller is not engaged in fraud or making intentional misrepresentations;
- The seller maintains proper books and records to substantiate taxes collected and remitted based on the applicable state’s requirements;
- The disclosed practices do not apply to sales of motor vehicles;
- The disclosed practices relate to products voluntarily returned by the customer and accepted by the seller (*e.g.*, does not include repossessed products) and;
- **The disclosed practices only provide general guidance and assume there are no other unique circumstances that apply.**

### **Disclosed Practice 5.1 – 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.*

**Disclosed Practice 5.1** - Does your state have written guidance on your website, or otherwise, that explains how sellers and/or customers can properly obtain a tax refund from your state? (If “yes”, please provide a website link and/or indicate how a person can obtain guidance in the comments.)

Yes // No // Comments

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### **Disclosed Practice 5.2 - Initiation of the State’s Statute of Limitations for a Seller to Claim a Tax Refund for Returned Products**

*Explanation: Each state’s statute of limitations differs as to when it begins for a seller to obtain a refund of tax paid for products returned by a customer. It can be based on:*

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- *The due date of the tax return on which the tax was required to be reported by the seller to the state;*
- *The date the tax on the sale was due by the seller to the state;*
- *The date the tax was remitted to the state or the due date of the tax return, whichever is later;*
- *The date the customer returns the product (such as a rescission of sale) to the seller and receives the refund from the seller.*

### Example 5.2

- 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 on the date of the sale.
- The transaction is subject to a 6% sales tax, including any applicable local sales taxes.
- Seller collects \$106 from the customer.
- Seller reports the \$100 sale and 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, but was filed with and submitted to the state on February 21, 2016.
- Customer returns the product on March 25, 2016, and receives 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 5.2** - When does your state's statute of limitations begin for a seller to obtain a refund of tax paid for products returned by a customer?

**Post Transaction 5.2.A** - It begins on the due date of the tax return on which the tax was required to be reported by the seller to the state (February 20, 2016, in Example A above).

Yes // No // Comments

**Post Transaction 5.2.B.** - It begins on the date the tax on the sale was due by the seller to the state (February 20, 2016, in Example A above).

Yes // No // Comments

**Post Transaction 5.2.C.** - It begins on the date the tax was remitted to the state or the due date of the tax return, whichever is later (February 21, 2016, in Example A above).

Yes // No // Comments

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**Post Transaction 5.2.D.** – It begins on the date the customer returns the product (such as a rescission of sale) to the seller and receives the refund from the seller (March 25, 2016, in Example A above).

Yes // No // Comments

**Post Transaction 5.2.E.** - Other – If the state’s answers to 5.2.A – 5.2.D. were all “no”, check “yes” and explain when the statute of limitations for a seller’s claim begins in the comments section.

Yes // No // Comments

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### **Disclosed Practice 5.3 – Statute of Limitations for a Seller to Claim a Tax Refund**

*Explanation: Most states have either a three- or four-year statute of limitations for refunds related to when a seller can obtain a refund of tax paid for products returned by a customer.*

**Disclosed Practice 5.3** – 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 Transaction 5.3.A.** - A three-year statute of limitations (that begins based on the state’s response in 5.2) for a seller to make a refund request to the state.

**Post Transaction 5.3.B.** - A four-year statute of limitations (that begins based on the state’s response in 5.2) for a seller to make a refund request to the state.

**Post Transaction 5.3.C.**- If the answers to both 5.3.A. and 5.3.B., were “no” indicate “yes” and provide your state’s time period for a seller to make a refund request to the state in the comments section.

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### **Disclosed Practice 5.4 – Documentation to Prove Refund of Tax to Customer**

*Explanation: States differ on what records are required to be retained to prove tax was paid by the customer and refunded to the customer. The seller retains information that identifies the product purchased, the date purchased, the tax collected, the product returned, the date returned and the tax 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.*

**Disclosed Practice 5.4** - Will your state accept the seller’s electronic sales receipts *that identify the product purchased, the date purchased, the tax collected, the product returned, the date*

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*returned and the tax refunded to the customer as sufficient documentation to prove that a customer paid tax?*

Yes // No // Comments

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### **Disclosed Practice 5.5 – Credit on Tax Return, Subsequent Tax Return or Refund Claim**

***Explanation:** States differ on how they will allow a seller to claim credit for tax refunded to its customers. If the product return was made prior to the tax return being filed, some states will allow a credit on the tax return. Some 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, while other states may require or allow a seller to file an amended tax return/refund claim to claim a credit.*

**Disclosed Practice 5.5** – How does a seller obtain a refund of tax refunded to their customer?

#### **Example 5.5.A.**

- Seller is located in your State and sells a product for \$100 on January 21, 2016.
- Customer takes possession of the product at the seller’s location on the date of the sale.
- The transaction is subject to a 6% sales tax, including any applicable local sales taxes.
- Seller collects \$106 from the customer.
- Customer returns the product to the seller at the seller’s location on February 7, 2016.
- The January tax return is due on February 20, 2016.

***Post Transaction 5.5.A.** –Does your state allow a seller to take a credit (or net) on its tax return to report the original sale if the product was returned prior to the seller filing that tax return?*

*(Note: A “Yes” answer means the seller could take a credit (or net) on the January return. If this is required, state that in the comments section.)*

Yes // No // Comments

#### **Example 5.5.B.**

- Seller is located in your State and sells a product for \$100 on January 21, 2016.
- Customer takes possession of the product at the seller’s location on the date of the sale.
- The transaction is subject to a 6% sales tax, including any applicable local sales taxes.
- Seller collects \$106 from the customer.
- Customer returns the product to the seller at the seller’s location on May 10, 2016.

***Post Transaction 5.5.B.** - Subject to the state’s statute of limitations, does your state allow a seller to take a credit (or net) during the reporting period when the product was*

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returned (May 10) if the product is returned in a different reporting period than the original sale?

(Note: a “Yes” answer means the seller could take a credit (or net) on the May return. If this is required, state that in the comments section.)

Yes // No // Comments

#### Example 5.5.C.

- Seller is located in your State and sells a product for \$100 on January 21, 2016.
- Customer takes possession of the product at the seller’s location on the date of the sale.
- The transaction is subject to a 6% sales tax, including any applicable local sales taxes.
- Seller collects \$106 from the customer.
- Customer returns the product to the seller at the seller’s location on February 25, 2016.
- The January tax return is due on February 20, 2016.

**Post Transaction 5.5.C.** – Subject to the state’s statute of limitations, does your state allow 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?

(Note: a “Yes” answer means the seller could file an amended January return or refund claim. If this is required, state that in the comments section.)

Yes // No // Comments

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### **Disclosed Practice 5.6 – Single Transaction for a Refund with Netting for Additional Required Charges**

**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 the product returned. Other states will allow sellers to net a refund for additional charges (e.g. restocking/return fees) required to make the return (with any applicable tax on those charges being required to be collected and remitted by the seller).

**Disclosed Practice 5.6** – May the seller process the refund and additional charges in one transaction on a single invoice?

**Post Transaction 5.6.A.-** Does your state allow the seller to obtain a refund from the state if the seller subtracts from the original sales price any charges imposed by the seller to make a return (understanding the tax must be collected on any taxable charges)? If your state has exceptions note those exceptions in the comments section.

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Yes // No // Comments

**Post Transaction 5.6.B.-** If the answer to 5.6.A was “no,” does your state allow the seller to obtain a refund from the state if it provides a full refund, including the tax, but subsequently imposes any service charges (and imposing any applicable tax) to the customer as a separate transaction on a separate invoice?

Yes // No // N/A // Comments

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### **Disclosed Practice 5.7 - Taxability of Restocking/Return Fees**

**Disclosed Practice 5.7** – Are restocking or return fees taxable in your state?

**Post Transaction 5.7.A.** – Does your state impose tax on restocking fees or return fees that are not directly associated with the use of a returned product?

Yes // No // Comments

**Post Transaction 5.7.B.** – Does your state impose tax on a charge for the use (e.g. wear and tear) of a product?

Yes // No // Comments

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### **Disclosed Practice 5.8 - Cash/Credit Refund versus Store Credit**

***Explanation:** Some sellers, when accepting a returned product will not provide cash or credit to a customer’s credit card or debit card based on seller’s return policies. Instead, a store gift card/voucher is provided for the entire purchase amount, including tax.*

**Disclosed Practice 5.8.** Does your state treat the refund in the form of store credit the same as a cash refund for returned products?

Yes // No // Comments

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### **Disclosed Practice 5.9 - Simultaneous Return and Sale**

***Explanation:** This disclosed practice addresses whether a state will allow a seller to claim credit (or net) for a returned product with a simultaneous purchase of another product in a single transaction.*

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### Example 5.9.A.

- Seller is located in your State and sells a product for \$100.
- The transaction is subject to a 6% tax, including any applicable local taxes.
- Seller collects \$106 from the customer.
- Customer later returns the product and simultaneously purchases another product for \$150, subject to a 6% tax, including any applicable local taxes; and
- Seller collects \$53 from the customer and remits \$3 of tax to the state.

**Disclosed Practice 5.9.A-** Does your state allow the seller to only collect and remit the additional tax on the price difference of a returned product when the replacement product costs more? **If no, explain in the comments section.**

Yes // No // Comments

### Example 5.9.B.

- Seller is located in your State and sells a product for \$100.
- The transaction is subject to a 6% tax, including any applicable local taxes.
- Seller collects \$106 from the customer.
- Customer later returns the product and simultaneously purchases another product for \$50, subject to a 6% tax, including any applicable local taxes; and
- Seller refunds \$53 to the customer and requests \$3 tax refund from the state.

**Disclosed Practice 5.9.B-** Does your state allow the seller to obtain a refund from the state for the price difference of a returned product when the replacement product costs less? **If no, explain in the comments.**

Yes // No // Comments

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### **Disclosed Practice 5.10: Refund Pending State Approval**

***Explanation:** After completing a transaction and reporting and paying that tax on the transaction to the state, a seller may be notified by a customer that a transaction was not taxable. Seller will not refund tax to the customer until the state approves the seller's refund request.*

**Disclosed Practice 5.10.A. -** Will your state refund or credit a seller for tax erroneously collected and remitted to the state prior to the seller refunding the customer the tax if the seller does not have a written agreement to refund the tax to the customer?

Yes // No // Comments

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**Disclosed Practice 5.10.B.** - If you answered “no” to disclosed practice 5.10.A., if the seller has a written agreement that it will refund the tax to the customer if the state approves the refund, will your state refund or credit a seller for tax erroneously collected and remitted to the state prior to the seller refunding the customer the tax?

Yes // No // Comments

**Disclosed Practice 5.10.C.** - Does your state require the seller to refund the tax to the customer prior to obtaining a refund from the state?

Yes // No // Comments

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#### **Disclosed Practice 5.11: Seller Refund When Customer Did Not Pay Tax**

*Explanation:* Sellers sometimes pay tax to the state prior to receiving payment from the customer. The customer subsequently refuses to pay the tax because the transaction is not subject to tax. Seller files for a refund, providing the customer’s reasons for why the tax is not owed.

##### **Disclosed Practice 5.11.**

Can the seller, who remitted the tax to the state, obtain a refund of the tax paid to the state if the customer refuses to pay the tax because the customer correctly asserted the product was exempt under the state’s laws? If “no”, indicate how a seller can claim a refund in the comment section.

Yes // No // Comments

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#### **Disclosed Practice 5.12: Returned Product to Seller in Another State**

*Explanation:* Customer buys a product sourced to State A and returns the product to seller’s location in State B. Seller at location in State B refunds full amount of State A’s tax to the customer and claims a refund with State A for the tax.

**Disclosed Practice 5.12** - The customer has the original sales receipt indicating your state’s tax was charged (i.e. State A). If the product is returned in another state, will your state allow the seller to claim the refund of the tax paid to your state? If “no,” explain in the comment section.



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Yes // No // Comments

### **Disclosed Practice 5.13: Returned Product to Seller in Another Local Jurisdiction**

***Explanation:** Customer buys a product sourced to Local Jurisdiction X in State A and returns the product in Local Jurisdiction Y in State A. The seller refunds the full amount of Local Jurisdiction X and State A’s tax to the customer and claims a refund for the local and state tax paid to State A.*

**Disclosed Practice 5.13-** The customer has the original sales receipt indicating the tax was charged for a local jurisdiction in your state. The product is returned in your state in a different local jurisdiction. Will your state allow the seller to claim the refund of the tax paid to the original local jurisdiction? If “no,” explain in the comment section.

Yes // No // Comments

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### **Disclosed Practice 5.14: Returned Product with No Receipt**

***Explanation:** Some sellers allow customers to return a product without a receipt. Seller has no idea where product was originally purchased (both location and seller). In that situation, sellers’ policy is to provide a credit for the product based on the returned product’s current selling price in the store, plus the tax rate at that store.*

**Disclosed Practice 5.14** If a seller refunds tax to a customer, without a receipt, using the tax rate at the store where the return was made and the price of the returned product at the store at that time, will your state allow the seller to receive a refund or credit of this tax from the state? Note in the comments section any special documentation the seller needs to provide the state.

Yes // No // Comments

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### **Disclosed Practice 5.15: Customer Directly Filing for a Refund**

***Explanation:** Sometimes a customer either cannot find the seller or the seller refuses to file a tax refund claim on behalf of the customer. In that situation, a customer wants to file a tax refund claim directly with the state. The states’ procedures on whether they will refund the tax to the customer vary.*

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**Disclosed Practice 5.15.A** - Does the state give customers the option to request a tax refund directly from the state (*i.e.*, the customer is not required to make the request through the seller)? Note any special requirements that may apply, such as minimum dollar thresholds, in the comment section.

Yes // No // Comments

**Disclosed Practice 5.15.B** - If the answer to disclosed practice 5.15.A was “no,” does the state allow a customer to obtain a tax refund from the state when the seller cannot be found or refuses to refund the tax to a customer? If “yes”, provide details in the comment section.

Yes // No // Comments