

DISCLOSURE OF PRACTICES – POST-TRANSACTION ISSUES – EXAMPLES

Unless the disclosed practice question indicates otherwise, the seller charged and the purchaser paid the correct tax on the original sale.

1 Claiming Credits or Refunds of Tax

Explanation for 1.1 and 1.2: Seller deducts on its tax return: 1) the price of the returned product from its total gross sales/receipts and 2) the tax that was refunded to the purchaser. Assume all requirements are met for seller to otherwise claim a refund/deduction and seller is remitting more tax than it is deducting on its return.

1.1 Seller Claims Deduction for Returned Product – Same Tax Period

- Seller makes a \$100 sale in January that is subject to the 6% state sales tax.
- Seller collects the \$6 in sales tax from the customer.
- Seller records the \$100 sale and \$6 in sales tax owed to the state in its books and records.
- Customer returns the product in the same month (January).
- Customer receives a full refund (\$106) from seller that month.

Assuming the seller includes the \$100 sale in its gross sales for that month; can the seller also claim a \$100 deduction from its gross sales on its return for that month?

1.2 Seller Claims Deduction for Returned Product – Different Tax Period

~~Seller makes a sale in late January and remits the tax on its tax return that covers that month (e.g., \$6 tax). Product is shipped to the customer in February; however, it is returned in May. Seller provides the purchaser with a full refund in May. Can seller reduce the tax owed on its return that covers May by \$6?~~

- Seller makes a \$100 sale in January that is subject to the 6% state sales tax.
- Seller collects the \$6 in sales tax from the customer.
- Seller records the \$100 sale and \$6 in sales tax owed to the state in its books and records, reports the \$100 sale on its January return and pays the \$6 in tax owed to the state.
- Customer returns the product in the May.
- Customer receives a full refund (\$106) from Seller in May.

Can Seller claim a \$100 deduction from its gross sales on its May return for the refund provided to Customer?

1.3 Refund Pending Approval - Claim Filed Without Refunding Purchaser

A seller invoices and collects the tax from its customers which are subsequently remitted to the State. Can a seller that timely files a refund claim wait to refund the tax to the purchaser until the State approves the refund? Refund will be paid to purchaser if the State approves the claim. (Some states tax is only refunded to the seller and not the purchaser!)

1.4 Seller Refund Filed From Customer Short Pay

Seller's customer disputes the sales/use tax the seller invoiced customer. Seller remits unpaid tax to the state and subsequently files a refund claim to ascertain if tax is due. Can seller obtain a refund if it is determined tax should not have been imposed on the transaction?

1.5 Purchaser Files Claim Directly to the State

- a. After contacting the seller, is there a written procedure (*i.e.*, statute, rule or procedure posted on the agency's website) that allows a purchaser to directly file a refund claim to the State?
- b. If yes, please explain procedure and where it is located.

1.6 No Limited Refund Period on Return of Good

- a. The state does not require a return be made within a certain period of time in order for seller (and purchaser) to receive credit for or refund of sales/use tax (within the state's normal statute of limitations)?
- b. If no, please specify time limitation.

1.7 Documentation to Support Sales Tax Paid

- a. Absent a concern with fraud, for purposes of a refund claim, does the seller's provision of a paper or electronic invoice showing tax charged on a transaction sufficient to establish that a purchaser paid sales tax on a transaction?
- b. If additional documentation is needed, please specify what documentation is required. Please specify if there are any special limitations based on tax amount and/or product (*e.g.*, motor vehicles).

2 Restocking Fees

Explanation for 2.1 and 2.2: States differ on how they treat restocking fees for sales tax purposes. Some states separate the refund into two transactions: the first transaction is the refund of the full purchase price and the second transaction a charge for the service of restocking the goods. Because the restocking service is not taxable, these states allow a refund of the full amount of tax paid on the original sale transaction. However, these states require the seller to distinguish between restocking charges that reflect the cost of repackaging and preparing the property for resale (i.e., non-taxable charges for restocking services) from taxable restocking fees, handling charges, or other similar fees that represent a charge for (1) the purchaser's use of the property, (2) a repurchase of the property by the seller at a lower purchase price, and/or (3) a policy to refund less than the full purchase price to discourage consumers from returning goods. Other states treat restocking charges as a reduction in the full purchase price. Thus, under this rationale, either (1) do not allow any tax refund, where the seller did not refund the full purchase price, or (2) allow only a partial tax refund to the extent of the net purchase price refunded to the buyer, for example, sales price less the restocking fee.

2.1 Restocking Fee Deducted from Refund Amount

a. Seller imposes 20% restocking fee on items returned by purchaser. Purchaser paid \$100 for good along with \$6 in tax, a total of \$106. Seller can: 1) refund purchaser \$86 (\$100-\$20+\$6) or 2) refund purchaser \$106 (\$100+\$6) and in a separate transaction impose a \$20 restocking fee. Is the \$100 transaction subject to a full sales/use tax refund in both situations?

b. If State taxes restocking fees as a taxable service (tax on \$20), please answer yes and indicate the fee is taxable in the comments.

Net refund – Georgia concern.

3 Returns of Goods & Delivery Charges

Member states are required to indicate on their respective taxability matrices whether delivery charges are included or excluded from sales price. Per rule 327.4, for non-direct mail, a state can impose a delivery charge on one or both of the following: (1)

handling, crating, packing, preparation for mailing or delivery, and similar charges; and (2) transportation, shipping, postage, and similar charges.

3.1 Return of Goods—No Refund of Delivery Charges

a. When a good is returned to the seller, the seller does not refund/credit the purchaser the amount charged for the delivery of a returned good. Is such a return subject to a full sales/use tax refund?

b. If State taxes delivery charges and the State otherwise complies with 3.1.a, please answer “yes” and indicate the charges are taxable in the comments.

3.2 Return of Goods—Separate Transaction Delivery Charge

a. Seller refunds/credits entire transaction in a return; however, in a separate transaction, seller charges the purchaser the delivery fee for the return of purchased goods. Is such a return subject to a full sales/use tax refund?

b. If the state taxes delivery charges and the State otherwise complies with 3.2.a, please answer “yes” and indicate the charges are taxable in the comments.

3.3 Return of Goods—Delivery Charge Only Imposed on Returned Goods

a. Seller does not charge purchaser a delivery charge for the initial sale; however, if an item is returned, seller imposes a delivery charge on return. Seller reduces the purchaser’s refund amount by the shipping and handling fee. Is such a return subject to a full sales/use tax refund?

b. Is the answer the same if the seller provides a credit on the original transaction and charges the purchaser separately for the delivery charge?

c. If State taxes delivery charges and the State otherwise complies with 3.3.a and b, please answer “yes” and indicate the delivery charges are taxable in the comments.

4 Exchanges

For purposes of this section, an “exchange” is when a purchaser returns a product to have it replaced with a similar item (e.g., different size or color) or a different item which may have a higher or lower sales or purchase price.

4.1 Exchange-No Price Difference

In an exchange transaction with no price difference, ~~it does not~~ does it matter for sales/use tax purposes (*i.e.*, no tax implications) whether the seller simply

exchanges the item for no charge or exchanges the item by providing a **credit** (CLARIFY WHAT IS MEANT) on the original transaction and charging the purchaser separately for the exchanged good?

4.2 Exchanges—Price Difference

In an exchange with the replacement item having a higher (or lower) price, a seller can treat the exchange as: 1) a return and refund~~s~~ the original transaction and bills the exchanged product as a separate transaction or 2) only billing (or refunding) its customer for the price differential. The State provides full credit for the tax paid in the original transaction in both situations and the seller only has to remit any additional tax due to the State (or obtain credit from the State) when the seller files its next tax return to the State based on the price differential?

Example for 4.3 and 4.4: a purchaser pays tax at a rate of 7% on the original sale; however, the purchaser exchanges the item for the same price at another location of the seller that has a tax rate of 8%. Seller imposes additional 1% tax and credits/debits jurisdictions on the seller's next return filed with the State(s).

4.3 – Exchanges – Different Local Jurisdiction

a. A purchaser exchanges a product in a different local tax jurisdiction of the State. Can the seller adjust the tax due based on the exchange location and collect (or refund) the sales/use tax based on the tax rate at the local jurisdiction where the product was exchanged? If the state does not impose local sales/use tax, please indicate N/A.

b. And, the seller can merely credit/debit the appropriate local jurisdictions on its next sales/use tax return?

4.4 – Exchanges – Different State

a. A purchaser exchanges a product in a different State. Can the seller adjust the tax due based on the exchange location and collect (or refund) the sales/use tax based on the tax rate at the State where the product was exchanged?

b. And, the seller can merely credit/debit the appropriate tax on its next sales/use tax return?

Adjust tax due – talking about a refund? Credit on return?

*****Issues Below are Still Work in Progress*****

5 After Sales Discounts for Cause

5.1 After Sales Discount for Cause–Cosmetic Damage—Cash

Consumer purchases tangible personal property and discovers after purchase that tangible personal property has cosmetic damage. The damage doesn't affect the tangible personal property's function, only its appearance. In lieu of return of the tangible personal property, seller refunds to the consumer a cash amount less than full sales price.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$100. Due to cosmetic damage, and pursuant to the seller's return policy, the consumer returns the tangible personal property for \$90.

Does member state allow seller to claim credit for or seek refund of sales or use tax paid based on: (i) the original sales price of \$100 (\$6 tax); (ii) the \$90 actually refunded to the customer (\$5.40 tax); or (iii) deny such credit/refund in full.

5.2 After Sale Discount for Cause—Cosmetic Damage-Certificate

Consumer purchases tangible personal property and discovers after purchase that tangible personal property has cosmetic damage. The damage doesn't affect the tangible personal property's function, only its appearance. In lieu of return of the tangible personal property, seller refunds to the consumer some amount less than full sales price in the form of a certificate or other document that allows the consumer a reduction on a future transaction.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$100. Due to cosmetic damage, and pursuant to the seller's return policy, the consumer returns the tangible personal property for a gift certificate equal to \$90. Per the member state's sales tax law, seller will collect applicable tax on the redemption of the gift certificate. [Note: Query whether we should address treatment of digital codes.]

Does member state allow seller to claim credit for or seek refund of sales or use tax paid based on: (i) the original sales price of \$100 (\$6 tax); (ii) the \$90 gift certificate amount given to the customer in lieu of cash refund (\$5.40 tax); or (iii) deny such

credit/refund in full.

5.3 After Sale Goodwill Discount

After purchase of tangible personal property consumer has issue not related to the performance or quality of the tangible personal property but a problem with the experience surrounding the purchase. In order to retain customer seller gives customer a gift card or other certificate entitling customer to a discount on a future purchase.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$100. To foster goodwill with the consumer, and pursuant to the seller's return policy, the seller allows the consumer return of the tangible personal property for a gift certificate equal to \$90. Per the member state's sales tax law, seller will collect applicable tax on the redemption of the gift certificate. **Note: Query whether we should address treatment of digital codes.]**

Does member state allow seller to claim credit for or seek refund of sales or use tax paid based on: (i) the original sales price of \$100 (\$6 tax); (ii) the \$90 gift certificate amount given to the customer in lieu of cash refund (\$5.40 tax); or (iii) deny such credit/refund in full.

6 Price Match Guarantee

6.1 Price Match Guarantee—Full Refund

Seller offers consumers the [[what about partial]] refund of consumer's purchase price if consumer (after purchase) presents proof of lower price offered by a competitor. Seller refunds the full purchase price on the original transaction. Accordingly, the seller refunds the total tax collected on the sale, \$12 based on the member state's 6% tax rate. **[Note: Does the seller keep the item?]**

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$200 from a seller that adopts a price match guarantee. After the sale, consumer notices a competitor's

ad for the same item for \$150. Per the seller’s price match guarantee, the consumer presents the competitor’s ad and returns the item for a full refund. The seller refunds \$12 tax collected from the consumer on the original transaction. Is a \$12 credit allowed on the seller’s return?

Same facts as above, but in lieu of cash, the seller provides a gift certificate equal to \$200 to the consumer. Does the gift certificate change the member state’s answer?

Further in the alternative, the seller provides the consumer store credit of \$200. Does the store credit change the member state’s answer?

If credit/refund is allowed for any of the above scenarios, please answer yes and indicate any differences in the comments. If no, please indicate the proper treatment of these transactions, with authority, in the comments section.

6.2 Price Match Guarantee—Partial Refund

Same facts as 6.1 except seller refunds to consumer part of the original purchase price in cash.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?

For example, consumer purchases tangible personal property for \$200 from a seller that adopts a price match guarantee. After the sale, consumer notices a competitor’s ad for the same item for \$150. Per the seller’s price match guarantee, the consumer presents the competitor’s ad for a cash refund of the difference, or \$50. The seller partially refunds \$3 tax collected from the consumer on the original transaction. Is a \$3 credit allowed on the seller’s return?

Same facts as above, but in lieu of cash, the seller provides a gift certificate equal to \$50 to the consumer. Does the gift certificate change the member state’s answer?

Further in the alternative, the seller provides the consumer store credit of \$50. Does the store credit change the member state’s answer?

If credit/refund is allowed for any of the above scenarios, please answer yes and indicate any differences in the comments. If no, please indicate the proper treatment of these transactions, with authority, in the comments section.

7 Earned Retailer Discounts

Seller gives consumer a certificate good for \$10 off subsequent purchases for each \$50 spent. Customer purchases \$50 of goods for \$40 by using a \$10 certificate.

Customer returns \$10 of goods and receives \$8 refund (\$10-\$2 certificate). tangible personal property that earned a discount certificate and seller deducts the discount certificate amount from the refund.

Does member state allow seller to claim credit for or seek refund of the sales or use tax paid on original transaction?