Examples of Credit for Taxes Paid to Other States

(For discussion purposes – Omaha, NE)

1. "Similar Taxes" Examples

Scenario 1

- State A imposes a 5% motor vehicle excise tax on sales of motor vehicles.
- For motor vehicle sales sourced to State A, those sales are subject to the 5% motor vehicle excise tax.
- If a person purchases a motor vehicle in another state and was not required to pay the other states' sales or use tax and then later stores, uses, or consumes the motor vehicle in State A, State A requires the purchaser to pay its 5% motor vehicle excise tax.
- If a person purchases a motor vehicle in another state and was required to pay the other states' sales or use tax, State A will give a credit for that sales or use tax paid against its 5% motor vehicle excise tax.
- State A's motor vehicle excise tax is a "similar tax"

Scenario 2 – (No "use tax" imposed)

- Same as Scenario 1 except State A does not impose its motor vehicle excise tax on the purchaser for storing, using, or otherwise consuming the motor vehicle in State A.
- State A's motor vehicle excise tax is not a "similar tax" because there is no tax imposed on the purchaser for storing, using, or otherwise consuming the motor vehicle in State A. Therefore other states do not have to allow the motor vehicle excise tax paid in State A as a credit against their state's sales or use tax.

Scenario 3 – (No credit allowed against it for s/u tax paid in other state)

- Same as Scenario 1, except that if a person purchases a motor vehicle in another state and was required to pay the other states' sales or use tax, State A will NOT give a credit for that sales or use tax paid against its 5% motor vehicle excise tax.
- State A's motor vehicle excise tax is not a "similar tax" because State A will not give credit against its motor vehicle excise tax for a sales or use tax paid in another state.

Scenario 4 – (Tax not imposed as a percentage of sales/purchase price)

- Same as Scenario 1, except that the motor vehicle excise tax is a flat $200 per vehicle.
- State A's motor vehicle excise tax is not a "similar tax" because the tax is not measured as a percentage of the sales price of the motor vehicle.

2. First Use and Subsequent Use Examples

<u>Scenario 1</u>

- Purchaser purchases taxable product in State A from Seller for $1,000.
- Purchaser receives possession of product at Seller's business location.
- Seller charges State A's 5% sales tax and collects the $50 tax from Purchaser.
- Purchaser takes the product to State B where the state use tax rate is 6%.
- State B imposes its tax based on the $1,000 purchase price of the product.
- State B must give credit for the 5% sales tax purchaser paid to Seller ($50) in State A against the $60 ($1,000 x 6%) use tax due in State B.
- State B will receive $10 in use tax ($60 - $50) on this transaction.
- Purchaser paid a total of $60 in sales and use tax.

<u>Scenario 2 (Moved to third state – tax based on sales price)</u>

- Same as Scenario 1, except that after Purchaser paid the additional $10 tax to State B, Purchaser takes the product to State C.
- The use tax rate in State C is 7%.
- State C imposes its tax on the $1,000 purchase price of the product.
- State C must give credit for the $50 tax paid to Seller in State A and the additional $10 in tax paid in State B against the $70 ($1,000 X 7%) use tax due in State C.
- State C will receive $10 in use tax ($70 - $50 - $10) on this transaction.
- Purchaser paid a total of $70 in sales and use tax.

<u>Scenario 3 (Moved to third state – tax based on depreciated value)</u>

- Same as Scenario 1, except that after Purchaser paid the additional $10 tax to State B, Purchaser takes the product to State C.
- The use tax rate in State C is 7%.
- State C imposes its use tax based on the depreciated value of the product as of the time it is first used in State C.
- The depreciated value of the product at the time it is first used in State C is $800.

  <u>Option 1 – consider actual tax paid in other states</u>
  - State C must give credit for the $50 tax paid to Seller in State A and the additional $10 in tax paid in State B against the $56 ($800 X 7%) use tax due in State C.
  - Therefore no additional use tax will be due in State C ($56 - $50 - $10) on this transaction.
  - Purchaser paid a total of $60 in sales and use tax.

  <u>Option 2 – base tax on rate differential</u>
  - In computing the use tax due, State C must give credit for the 5% tax paid to Seller in State A and the additional 1% tax paid in State B against the 7% use tax due in State C.
  - Therefore an additional 1% use tax will be due in State C on the $800 measure which State C imposes it use tax on in this transaction.
  - Sate C will receive $8 in use tax on this transaction.

3. "Sales Price" and "Purchase Price" Differences Examples

Scenario 1 (Delivery charges excluded from "crediting states" definition of "sales price" but included in definition of "sales price" in state where sale was sourced)

- Purchaser purchases taxable product in State A from Seller for $10,000 plus $1,000 delivery charge for a total of $11,000.
- Product is delivered to Purchaser at Purchaser's business location in State A.
- State A includes "delivery charges" in its definition of "sales price."
- Seller charges State A's 5% sales tax and collects the $550 tax from Purchaser.
- Purchaser takes the product to State B where the state use tax rate is 6%.
- State B does not include "delivery charges" in its definition of "sales price."
- State B imposes its tax based on the $10,000 purchase price of the product.

  Option 1 – credit for actual tax paid in other state
  - State B must give credit for the 5% sales tax purchaser paid to Seller ($550) in State A against the $600 ($10,000 x 6%) use tax due in State B.
  - State B will receive $50 in use tax ($600 - $550) on this transaction.
  - Purchaser paid a total of $600 in sales and use tax.

  Option 2 – credit for actual tax paid in other state on same measure only. No credit for items excluded from definition of "sales price" or "purchase price" in crediting state.
  - State B must only give credit for the 5% sales tax purchaser paid to Seller in State A on the same measure of the "sales price" or "purchase price" that State B is imposing its use tax ($10,000).
  - State B must only give credit for the $500 in sales tax Purchaser paid on the $10,000 measure against the $600 ($10,000 x 6%) use tax due in State B.
  - State B will receive $100 in use tax ($600 - $500) on this transaction.
  - Purchaser paid a total of $650 in sales and use tax.
  - State B does not have to give credit for the additional $50 in use tax that Purchaser paid in State A on the separately stated delivery charges since State B does not include "delivery charges" in its definition of "sales price" or "purchase price."

  Option 3 – rate differential on measure based on crediting states definition
  - In computing the use tax due, State B must give credit for the 5% tax paid to Seller in State A on the same measure that State B imposes its tax on.
  - Therefore an additional 1% (6% - 5%) use tax will be due in State B on the $10,000 measure which State B imposes it use tax on in this transaction.
  - State B will receive $100 in use tax on this transaction.
  - State B does not have to give credit for the 5% sales tax paid on the $1,000 delivery charge since State B does not include "delivery charges" in its definition of "sales price" or "purchase price."

Scenario 2 (Delivery charges included in "crediting states" definition of "sales price" but excluded from definition of "sales price" in state where sale was sourced)

- Purchaser purchases taxable product in State X from Seller for $10,000 plus $1,000 delivery charge for a total of $11,000.
- Product is delivered to Purchaser at Purchaser's business location in State X.
- State X does not include "delivery charges" in its definition of "sales price."
- Seller charges State X's 5% sales tax and collects the $500 tax ($10,000 x 5%) from Purchaser.
- Purchaser takes the product to State Y where the state use tax rate is 6%.
- State Y includes "delivery charges" in its definition of "sales price."
- State Y imposes its tax based on the $11,000 purchase price of the product.

  Option 1 – credit for actual tax paid in other state
    - State Y must give credit for the 5% sales tax purchaser paid to Seller ($500) in State X against the $660 ($11,000 x 6%) use tax due in State Y.
    - State Y will receive $160 in use tax ($660 - $500) on this transaction.
    - Purchaser paid a total of $660 in sales and use tax.

  Option 2 – credit for actual tax paid in other state on same measure plus tax due on additional items included in crediting states definition of "sales price" and "purchase price"
    - State Y must give credit for the 5% sales tax purchaser paid to Seller in State X on the same measure of the "sales price" or "purchase price" that State Y is imposing its use tax ($10,000) up to the amount of tax Purchaser actually paid in State X.
    - State Y must give credit for the $500 in sales tax Purchaser paid on the $10,000 measure against the $600 ($10,000 x 6%) use tax due in State Y on that same measure.
    - State Y may also impose its 6% tax on the additional $1,000 delivery charges that were excluded from the measure upon which Purchaser paid tax in State X.
    - State Y will receive $160 in use tax ($660 - $500) on this transaction.
    - Purchaser paid a total of $660 in sales and use tax.

  Option 3 – rate differential on same measure taxed in both states plus full tax rate on additional items included in crediting states definition of "sales price" and "purchase price" but excluded from definition in state to which sale was sourced
    - In computing the use tax due, State Y must give credit for the 5% tax paid to Seller in State X on the same measure that State Y imposes its tax on, up to the amount of tax actually paid by Purchaser in State X.
    - Therefore an additional 1% use tax will be due in State Y on the $10,000 measure which State Y imposes it use tax on in this transaction.
    - In addition, State Y may impose its full 6% rate on the delivery charges that were excluded from the definition of "sales price" in State X.
    - State Y will receive $160 in use tax on this transaction ($10,000 x 1% plus $1,000 x 6%).

Scenario 3 (Delivery charges included in "crediting states" definition of "sales price" but excluded from definition of "sales price" in state where sale was sourced)

- Purchaser purchases taxable product in State L from Seller for $10,000 plus $1,000 delivery charge for a total of $11,000.
- Product is delivered to Purchaser at Purchaser's business location in State L.
- State L does not include "delivery charges" in its definition of "sales price."
- Seller charges State L's 6% sales tax and collects the $600 tax ($10,000 x 6%) from Purchaser.
- Purchaser takes the product to State M where the state use tax rate is 5%.
- State M includes "delivery charges" in its definition of "sales price."
- State M imposes its tax based on the $11,000 purchase price of the product.

  Option 1 – credit for actual tax paid in other state
  - State M must give credit for the 6% sales tax purchaser paid to Seller ($600) in State L against the $550 ($11,000 x 5%) use tax due in State M.
  - Since the tax paid in State L is equal to or greater that the tax due in State M, State M will not receive any additional use tax on this transaction.
  - Purchaser paid a total of $600 in sales and use tax.

  Option 2 – credit for actual tax paid in other state on same measure plus full tax rate due on additional items included in crediting states definition of "sales price" and "purchase price"
  - State M must give credit for the 6% sales tax Purchaser paid to Seller in State L on the same measure of the "sales price" or "purchase price" upon which State M is imposing its use tax ($11,000) up to the measure of tax Purchaser actually paid tax on in State L ($10,000).
  - State M must give credit for the $600 in sales tax Purchaser paid in State L on the $10,000 measure against the $500 ($10,000 x 5%) use tax due in State M. (Note: Although Purchaser paid $600 in tax, the measure upon which that tax was paid was only $10,000. Therefore Purchaser can offset only the tax ($500) due on $10,000 in State M.)
  - State M may impose its 5% tax on the additional $1,000 State M includes in its definition of "sales price" or "purchase price" relating to the delivery charges.
  - State M will receive $50 in use tax ($1,000 x 5%) on this transaction.
  - Purchaser paid a total of $650 in sales and use tax.

  Option 3 – rate differential on same measure taxed in both states plus full tax rate on additional items included in crediting states definition of "sales price" and "purchase price" but excluded from definition in state to which sale was sourced
  - In computing the use tax due, State M must give credit for the 6% tax paid to Seller in State L on the same measure that State M imposes its tax on ($10,000), up to the amount of tax actually paid by Purchaser in State L.
  - Since the rate paid in State L (6%) is equal to or greater than the rate due in State M (5%) on the $10,000 measure, no additional tax is due on this portion of the transaction.
  - State M may impose its full 5% rate on the delivery charges ($1,000) that were not subject to tax in State L.
  - State M will receive $50 in use tax on this transaction ($1,000 x 5%).
  - The "excess" tax that Purchaser paid to State L on the $10,000 may not be used to offset the tax due on the additional $1,000 measure that State M imposes its tax on.

4. Labor Charge Differences Examples

Scenario 1 (Labor charges not taxed by "crediting states" but taxed in state where sale was sourced)

- Purchaser has a taxable product repaired in State A by Seller.
- Seller charges $6,000 for parts plus $4,000 for labor.
- Product is delivered to Purchaser at Purchaser's business location in State A.
- State A imposes tax on the parts and labor.
- Seller charges State A's 5% sales tax and collects the $500 tax from Purchaser.
- Purchaser takes this product to State B where the state use tax rate is 6%.
- State B does not impose tax on labor charges.
- State B imposes its tax only based on the $6,000 charge for the parts.

  Option 1 – credit for actual tax paid in other state
  - State B must give credit for the 5% sales tax purchaser paid to Seller ($500) in State A against the $360 ($6,000 x 6%) use tax due in State B.
  - Since the tax paid in State A ($500) was equal to or greater than the tax due in State B, State B will not receive any use tax on this transaction.

  Option 2 – credit for actual tax paid in other state on same measure only. No credit for tax paid on items not taxed in crediting state.
  - State B must only give credit for the 5% sales tax purchaser paid to Seller in State A on the same measure that State B is imposing its use tax on ($6,000).
  - State B must only give credit for the $300 ($6,000 x 5%) in sales tax Purchaser paid on the $6,000 measure against the $360 ($6,000 x 6%) use tax due in State B.
  - State B will receive $60 in use tax ($360 - $300) on this transaction.
  - State B does not have to give credit for the additional $200 ($4,000 x 5%) in sales or use tax that Purchaser paid in State A on the separately stated labor charges since State B does not impose its tax on labor charges.

  Option 3 – rate differential on measure based on what crediting state taxes plus full tax rate on additional items crediting state taxes but which were not taxed by the state to which sale was sourced
  - In computing the use tax due, State B must give credit for the 5% tax paid to Seller in State A on the same measure that State B imposes its tax on.
  - Therefore an additional 1% (6% - 5%) use tax will be due in State B on the $6,000 measure which State B imposes it use tax on in this transaction.
  - State B will receive $60 in use tax on this transaction.
  - State B does not have to give credit for the 5% sales tax paid on the $4,000 labor charge since State B does not impose its tax on labor charges.

<u>Scenario 2 (Labor charges taxed in "crediting state" but not taxed in state where sale was sourced)</u>

- Purchaser has a taxable product repaired in State X.
- Seller charges $6,000 for repair parts and $4,000 for labor.
- Product is delivered to Purchaser at Purchaser's business location in State X.
- State X imposes 5% tax on the $6,000 charge for the parts, but not on the labor.
- Seller charges State X's 5% sales tax and collects the $300 ($6,000 x 5%) tax from Purchaser.
- Purchaser takes the product to State Y where the state use tax rate is 6%.
- State Y imposes its 6% tax on both the $6,000 charge for the parts and the $4,000 labor charge for a total of $600 ($10,000 x 6%).

  <u>Option 1 – credit for actual tax paid in other state</u>
    - State Y must give credit for the 5% sales tax purchaser paid to Seller ($300) on the charge for the parts in State X against the $600 ($10,000 x 6%) use tax due in State Y.
    - State Y will receive $300 in use tax ($600 - $300) on this transaction.
    - Purchaser paid a total of $600 in sales and use tax.

  <u>Option 2 – credit for actual tax paid in other state on same measure plus tax due on additional items taxed in crediting state</u>
    - State Y must give credit for the 5% sales tax ($300) purchaser paid to Seller in State X on the repair parts against the use tax ($360) that State Y is imposing on the repair parts ($6,000 x 6%).
    - State Y may also impose its 6% tax on the additional $4,000 labor charge that was not taxed in State X ($240).
    - State Y will receive a total of $300 in use tax ($600 - $300) on this transaction.
    - Purchaser paid a total of $600 in sales and use tax.

  <u>Option 3 – rate differential on same measure taxed in both states plus full tax rate on additional items included in crediting states definition of "sales price" and "purchase price" but excluded from definition in state to which sale was sourced</u>
    - In computing the use tax due, State Y must give credit for the 5% tax paid to Seller in State X on the same measure that State Y imposes its tax on, up to the amount of tax actually paid by Purchaser in State X.
    - Therefore an additional 1% use tax ($60) will be due in State Y on the $6,000 charge for the parts which State Y imposes it use tax on.
    - In addition, State Y may impose its full 6% rate on the $4,000 labor charge since it was not taxed in State X.
    - State Y will receive $300 in use tax on this transaction ($6,000 x 1% plus $4,000 x 6%).

<u>*Scenario 3 (Labor charges taxed in "crediting state" but not taxed in state where sale was sourced)*</u>

- Purchaser has a taxable product repaired by Seller in State L.
- Seller charges Purchaser $6,000 for repair parts plus $4,000 for repair labor.
- Product is delivered to Purchaser at Purchaser's business location in State L.
- State L does not impose its tax on labor charges.
- Seller charges State L's 6% sales tax on the repair parts and collects the $360 tax ($6,000 x 6%) from Purchaser.
- Purchaser takes the product to State M where the state use tax rate is 5%.
- State M imposes its tax on both repair parts ($6,000) and repair labor ($4,000).

  <u>Option 1 – credit for actual tax paid in other state</u>
  - State M must give credit for the 6% sales tax purchaser paid to Seller ($360) in State L against the $500 ($10,000 x 5%) use tax due in State M.
  - State M will only receive $140 ($500 - $360) in additional use tax on this transaction.
  - Purchaser paid a total of $500 in sales and use tax.

  <u>Option 2 – credit for actual tax paid in other state on same measure plus full tax rate due on additional items taxed in crediting state but not tax in state to which sale was sourced</u>
  - State M must give credit for State L's 6% sales tax Purchaser paid to Seller ($360) in State L on the same measure (i.e.,$6,000 for repair parts) that State M is imposing its use tax ($300) on, up to the amount of tax due on the repair parts in State M ($300). (Note: Although Purchaser paid $360 in tax, the measure upon which that tax was paid was only $6,000 (i.e., just the repair parts). Therefore Purchaser can offset only the tax due on $6,000 in State M.)
  - State M may also impose its 5% tax on the additional $4,000 labor charge.
  - State M will receive $200 in use tax ($4,000 x 5%) on this transaction.
  - Purchaser paid a total of $560 in sales and use tax ($360 in State L and $200 in State M).

  <u>Option 3 – rate differential on same measure taxed in both states plus full tax rate on additional items taxed in crediting states but excluded from tax in the state to which sale was sourced</u>
  - In computing the use tax due, State M must give credit for the 6% tax paid to Seller in State L on the same measure that State M imposes its tax on ($6,000 for the repair parts).
  - Since the rate paid in State L (6%) is equal to or greater than the rate due in State M (5%) on the $6,000 measure, no additional tax is due on this portion of the transaction.
  - State M may impose its full 5% rate on the labor charges that were not subject to tax in State L.
  - State M will receive $200 ($4,000 x 5%) in use tax on this transaction.
  - The "excess" tax that Purchaser paid to State L on the $6,000 parts charge may not be used to offset the tax due on the additional $4,000 labor charges that State M imposes its tax on.

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5. Local Taxes Examples

Scenario 1 (State and local tax paid in state to which sale was sourced but no local tax imposed by state in which product was used)

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser takes possession of the product at Seller's location in State A.
- Seller charges State A's 5% state sales tax ($50) and 1% local sales tax ($10) on the transaction.
- Purchaser takes the product to State B where the state use tax rate is 7%.
- State B does not impose any local taxes.
- State B must give credit for the 5% state and 1% local sales tax Purchaser paid to Seller ($60) in State A against the $70 ($1,000 x 7%) use tax due in State B.
- State B will receive $10 in use tax ($70 - $60) on this transaction.
- Purchaser paid a total of $70 in sales and use tax.

Scenario 2 (State rate paid in state to which sale was sourced exceeds combined state and local tax rates where product is used)

- Purchase purchases taxable product from Seller in State X for $1,000.
- Purchaser takes possession of the product at Seller's location in State X.
- Seller charges State X's 7% state sales tax on the transaction.
- State X does not impose any local sales or use taxes.
- Purchaser takes the product to State Y.
- State Y imposes a 5% state sales tax and 1% local tax on the transaction.
- State Y must give credit for the 7% state sales tax Purchaser paid to Seller ($70) in State X against the $60 ($1,000 x 5% plus $1,000 x 1%) state and local sales and use taxes due in State Y.
- State Y will not receive any use tax on this transaction since the 7% rate paid in State X exceeded the combined state and local rate due in State Y

6. Allocations of Taxes Paid to Other States Between State and Local Taxes Due in Subsequent States

Scenario 1 (Combined rate the same in both states)

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser takes possession of the product at Seller's location in State A.
- Seller charges State A's 5% state sales tax ($50) and 1% local sales tax ($10) on the transaction.
- Purchaser takes the product to State B where the state use tax rate is 4% and the local use tax rate is 2%.
- State B must give credit for the 5% state and 1% local sales tax Purchaser paid to Seller ($60) in State A against the $60 in use tax ($1,000 x 4% state and 2% local tax combined rate) due in State B.
- No additional state or local tax is due in this scenario.
- State B may not require Purchaser to offset state tax against state tax and local tax against local tax such that Purchaser would owe an additional 1% local use tax since Purchaser only paid 1% local tax in State A (i.e., the excess state tax must be allowed as a credit against the local tax due).

Scenario 2 (Combined rate paid less than the combined rate due in subsequent state)

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser takes possession of the product at Seller's location in State A.
- Seller charges State A's 5% state sales tax ($50) and 1% local sales tax ($10) on the transaction.
- Purchaser takes the product to State X where the state use tax rate is 6% and the local use tax rate is 3%.
- State X must give credit for the 5% state and 1% local sales tax Purchaser paid to Seller ($60) in State A against the $90 in use tax ($1,000 x 6% state tax plus $1,000 x 3% local tax) due in State X.
- State X may not require Purchaser to track and offset state tax against state tax and local tax against local tax such that Purchaser would owe an additional 1% state use tax and 2% local use tax.
- State X may require Purchaser to allocate the additional $30 in combined state and local use tax due (3% combined state and local tax rate differential x sales price or purchase price) in any manner which does not require Purchaser to track the tax paid to the other state based on whether it was a state tax or local tax paid to the other state.

7. Credits for Taxes Paid in Error

Scenario 1 (Purchaser can get tax back from state in which tax paid in error)

- Purchaser purchases taxable product from Seller in State A for $1,000.
- Purchaser has product delivered to Purchaser's location in State B.
- Seller incorrectly charges State **A's** 5% state sales tax ($50) on the transaction.
- Purchaser uses the product in State B where the state use tax rate is 6%.
- State B contacts Purchaser and informs Purchaser that State **B's** 6% sales or use tax is due on the product.
- Purchaser provides receipt showing Purchaser paid State **A's** 5% state sales tax.
- State B indicates that since the transaction was properly sourced to State B, Seller incorrectly collected State **A's** sales tax and no credit would be given for that tax and the full 6% tax was due to State B.
- Purchaser contacts Seller (or State A) and is able to get a refund of State A's tax that was paid in error.
- Purchaser owes State **B's** sales or use tax on this transaction.

Scenario 2 (Purchaser cannot get tax back from state in which tax was paid in error)

- Same as Scenario 1, except that Purchaser is not able to get a refund of the tax improperly paid to State A from State A or Seller.
- Purchaser still owes 6% sales or use tax to State B and State B is not required to give credit for the tax Purchaser improperly paid to State A.