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TAX CREDIT UNDER STATE SALES, USE OR GROSS RECEIPTS TAXES

The following states have sales, use or gross receipts statutes which permit credit of sales tax paid in one jurisdiction against the use tax incurred when goods are subsequently brought into the destination state:

	States *	Citations to State Code	Reported in Prentice Hall, State & Local Taxes at Par:
1.	Arizona	§ 42-1409	22,866.10
2.	Connecticut	§ 12-430(5)	22,340.30
3.	Georgia	§ 10	22,190
4.	Illinois	S.H.A. ch. 120, § 439.3(c)	22,310.40
5.	Indiana	§ 45(b)	22,150.5
6.	Iowa	§ 423.25	22,566
7.	Kansas	§ 79-3704	22,403
8.	Kentucky	139.510	
9.	Louisiana	§ 305(6)	22,220.30
10.	Maine	Chapter 17, § 12	22,019-A
11.	Maryland	Art. 81 § 375(c)	22,410.25
12.	Michigan	§ 7.555(4)(e)	22,525.25
13.	Mississippi	10146-02	22,506.5
14.	Missouri	§ 144.615	22,640.25
15.	New Mexico	§ 72-17-4(C)	22,919
16.	North Dakota	§ 57-40-10	22,850
17.	Oklahoma	68 Okl. St. Ann. § 1404(c)	22,614
18.	Pennsylvania	72 P.S. § 3403-205	22,751-V
19.	Tennessee	§ 67-3008	22,035
20.	Texas	V.A.T.S. Tax.-Gen. art. 20.04(i)	22,315.45
21.	Wisconsin	§ 77.53(16)	22,025.85
22.	District of Columbia	§ 47-2706(c)	22,590.15

In addition, § 1, Act No. 270 (1959 Session) of the Arkansas Statutes provides for a special tax credit as follows:

ARKANSAS: 22,756 (§ 1 Act 270 of 1959, effective 6-11-59). "This Act shall apply equally to used aircraft in instances where the used aircraft has once been subjected to the Gross Receipts Tax on a previous sale and reported by the seller or dealer and/or in instances where the original purchaser has paid the Arkansas Compensatory Tax to a registered out-of-state dealer or directly to the Commissioner of Revenues as provided under the Arkansas Compensating Tax Act of 1949. It is the intent of this Act that used aircraft once having been subjected to either the Gross Receipts or Compensating Use Tax shall on subsequent sale be exempted."

The following states have sales, use or gross receipts statutes which do not permit credit of sales tax paid in one jurisdiction against the use tax incurred when goods are subsequently brought into the destination state:

1. Alabama
2. Alaska
3. California
4. Colorado
5. Florida
6. Hawaii
7. Nevada
8. North Carolina
9. Ohio
10. Rhode Island
11. South Carolina
12. South Dakota
13. Utah
14. Washington
15. West Virginia
16. Wyoming

Tax Credit provisions of states having sales, use or gross receipts taxes:

ARIZONA: § 42-1409 of the Arizona Revised Statutes provides, "The tax levied by this article /use tax/ does not apply to the storage, use or consumption in this state of the following described tangible personal property:... 2. Tangible personal property the sale or use of which has already been subjected to an excise tax equal to or in excess of that imposed by this article under the laws of such other state of the United States."

2. CONNECTICUT: § 12-430(5) of the General Statutes of Connecticut provides, "If any article of tangible personal property has already been subjected to a sales or use tax by any other state or political subdivision thereof and payment made thereon in respect to its sale or use in an amount less than the tax imposed by this chapter shall apply, but at a rate by which the previous tax upon the sale or use was computed. If such tax imposed in such other state or political subdivision thereof is equivalent to or in excess of the rate imposed under this chapter at the time of such sales or use, then no tax shall be due on such article.

* For purposes of this analysis, the District of Columbia is included in this list.

Alabama: Rule I14-012 of the Department of Revenue, "Sales are in interstate commerce and cannot be taxed by the Alabama sales tax law where: (1) The seller is required by the sales agreement to deliver the goods outside the state in his equipment, or (2) The seller is required by the sales agreement to deliver the goods to a common carrier or to the United States Post Office for transportation outside the state at the seller's direction either f.o.b. point of origin or f.o.b. point of destination, or (3) The seller is required by the sales agreement to deliver the goods outside the state by the use of an independent trucker hired by him.

Property is not sold in interstate commerce when the buyer takes actual possession of the goods in this state or when an agent of the buyer accepts delivery for him to make delivery outside the state by the buyer's direction."

Rule I14-014 provides, "Where a resident contractor purchases materials from an Alabama dealer with the provision that the materials be delivered outside of Alabama for the contractor's use outside of Alabama, the sale is in interstate commerce and is exempt from the tax."

Arizona: Reg. 2.21 of the Sales Tax Division provides, "A sale by a vendor not doing business in Arizona to a buyer in Arizona is an interstate sale and is not subject to the transaction tax... (a) equipment sold to a consumer that is shipped into this state under an agreement that it be tested before final acceptance, though in other respects an interstate or foreign sale, may be taxable as a retail sale within the state, since the sale is not consummated until acceptance after the test, whether the test is made by the purchaser or by or with the assistance of an agent or employee of the vendor, depending upon the circumstances in each case. (b) if equipment which in the ordinary course of business is, after shipment, tested or subjected to operating trial or engineering inspection, either by the seller, the purchaser, or both, before final acceptance is sold to an out-of-state purchaser and shipped by carrier or seller to an out-of-state destination, such sale is not taxable as a retail sale within the state unless final acceptance takes place within the state, even though delivery and transfer of title occur within the state and even though the transaction is, in other respects, a local sale, since the purchaser' final acceptance is, under such circumstances, a substantial incident of the sale and the transaction is, therefore, not substantially completed in Arizona."

Arkansas: Article 27 of the Gross Receipts Tax Rules and Regulations provides, "When tangible personal property is purchased for any other purpose than for resale and the seller thereof is engaged in an established business within this State and delivery is made within this State transferring either title or possession such sale is intrastate and subject to the Gross Receipts Tax irrespective of the part that the seller may not have in stock certain goods, wares and merchandise for immediate delivery requiring the vendor to order same for direct shipment at or from a source outside this State."

"When tangible personal property is sold by vendors engaged in an established business in this State and under the terms of a contract of sale or order are obligated to deliver by common carrier, mails or in vendor's own conveyance to a point outside this State for consumption and use such transactions are not subject to the tax..."

California: Rule No. 55 of the State Board of Equalization provides, "1 Exempt Transactions. Sales tax does not apply to sales of property which is:

(a) shipped from a point outside this State (1) directly to the customer in this State, pursuant to an order sent by the customer directly to the seller at a point outside this State, or (2) directly to the customer in this State, pursuant to an order taken in this State by an agent of the seller, or (3) to the seller's agent in this State, pursuant to the contract of sale, for delivery by the agent to the purchaser in this State, there being no participation whatever in any of the foregoing transactions by the seller's branch office or other place of business in this State or by an agent of the seller having any connection with any branch office or other place of business of the seller in this State. (b) Imported into this State from a foreign country and soldy by the importer in the original package in which imported. (c) Shipped to a point outside this State, pursuant to the contract of sale, by delivery by the retailer to such point by means of (1) facilities operated by the retailer, (2) delivery by the retailer to a carrier for shipment to a consignee at such point, or (3) delivery by the retailer to a customs broker or forwarding agent for shipment outside this State...

3. GEORGIA: § 10 of the Georgia Code provides: "The provision of this Act shall not apply in respect to the use or consumption, or distribution, or storage of tangible personal property for use or consumption in this State upon which a like tax equal to or greater than the amount imposed by this Act has been paid in another State, the proof of payment of such tax to be according to rules and regulations made by the Commissioner. If the amount of tax paid in another State is not equal to or greater than the amount of tax imposed by this Act, then the dealer sh pay to the Commissioner an amount sufficient to make the tax paid in the other Sta and in this State equal to the amount imposed by this Act. No credit shall be giv under this Section for taxes paid in another State, if that State does not grant like credit for taxes paid in Georgia."

4. ILLINOIS: S.H.A. ch. 120 § 439.2(c) provides: "To prevent actual c likely multistate taxation, the tax herein imposed /use tax/ shall not apply to the use of tangible personal property in this State under the following circumstance:.. (c) the use, in this State of tangible personal property which is acquired outside this state and caused to be brought into this State by a person who has already pai a tax in another state in respect to the sale, purchase or use of such property, to the extent of the amount of such tax so paid in such other state..."

The same language is found in § 439.33 having to do with the tax on the use of real or tangible personal property, acquired as an incident to the purchase of a service from a serviceman.

5. INDIANA: § 45(b), 22,150.5 provides, "Every person liable for the payment of use tax imposed by this act on any tangible personal property shall be entitled to a credit for the amount of any sale, purchase or use tax paid to any other state, territory or possession of the United States of America with respect to the acquisition of such property."

6. IOWA: § 423.25, 22,566 provides, "If any person who causes tangible personal property to be brought into this state has already paid a tax in another state in respect to the sale or use of such property, or an occupation tax in respect thereto, in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax on the sale or use, or the occupation tax, was computed. If such tax imposed and paid on such other state is equal to or more than the tax imposed by this title, then no tax shall be due in this state on such personal property."

7. KANSAS: § 79-3704 of the Kansas Statutes provides: "The provisions of this act shall not apply...(c) In respect to the use, storage or consumption of any article of tangible personal property the sale or use of which has already been subjected to a tax equal to or in excess of that imposed by this act whether under the laws of that /this/ state or of some other state of the United States;..."

8. KENTUCKY: § 139.510 of the Kentucky Revised Statutes provides, "The tax levied by KRS 139.310 shall not apply with respect to the storage, use or other consumption of tangible personal property in this state upon which a tax substantiall identical to the tax levied under KRS 139.200 (not including any special excise taxe such as are imposed on alcoholic beverages, cigarettes and the like) equal to or greater than the amount of tax imposed by KRS 139.310 has been paid in another state. Proof of payment of such tax shall be according to rules and regulations of the department. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the department an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state."

9. LOUISIANA: § 305(6) of the Louisiana Code provides, "The provisions of this Chapter shall not apply in respect to the use, or consumption, or distribution, or storage of tangible personal property for use or consumption in this State, upon which a like tax equal to, or greater than, the amount imposed by this Chapter has been paid in another State, the proof of the payment of such tax to be accordin to rules and regulations made by the Collector of Revenue. If the amount of tax pa in another State is not equal to or greater than the amount of tax imposed by this Chapter, then the dealer shall pay to the Collector of Revenue an amount sufficient to make the tax paid in the other state and in this State, equal to the amount imposed by this Chapter."

10. MAINE: Chapter 17, § 12 of the Revised Statutes of Maine provides: "The Use tax provisions of this chapter shall not apply in respect to the use, storage or consumption in this state of tangible personal property purchased at

2. Taxable Transactions. Sales tax applies to sales of property which is: (a) Shipped from a point outside this State to the purchaser in this State in a transaction in which (1) The seller's branch office or other place of business in this State is utilized in any way, as in receiving the order or distributing the goods, or (2) the order for the goods is given in this State to an agent connected with a branch office or other place of business of the seller in this State, or (3) the order for the goods is given in this State to an agent of an out-of-state seller, the contract of sale not requiring, however, that the order be filled by shipment from a point outside this State. (b) Sold and delivered to the purchaser or his representative in this State (except under conditions stated in paragraph (e) above), whether or not the disclosed or undisclosed intention of the purchaser is to transport the property outside the State, and whether or not the property is actually so transported. Effective September 20, 1963, the sale of rail freight cars for use in interstate or foreign commerce is exempt from the tax.'

Colorado: Regulation 45 of the Department of Revenue provides, "...Export sales. (b) Where tangible personal property is located within the State of Colorado at the time of sale but delivery of the article sold is to be made at a destination outside of the State of Colorado and where the vendor of the article retains actual physical possession of the article after sale until it is put into the hands of the carrier for delivery to the consignee at a destination beyond the borders of this State, such sale shall be deemed to have been made in the flow of interstate commerc and hence immune from the application of the Colorado sales tax law..."

"...Import sales. (g) If merchandise is ordered for delivery in Colorado from a person or corporation doing business in Colorado the sale is taxable even though the merchandise may be shipped from outside of the State to the vendor or direct to the purchaser..."

"(h) Sales made by foreign vendors, wherein the orders for the merchandise have been taken within the State of Colorado by resident representatives or agents of such vendors, such orders being approved by the foreign vendor and the merchandise covered thereby shipped from the foreign vendor to the purchaser within this State, either direct or through the media of the local representatives, agents, or salesman are subject to the tax. Under these circumstances, the resident agent, salesman or representatives of such foreign vendor shall be required, as the vendor of all such articles so sold and delivered, to procure sales tax license and be responsible for the collection and remittance of taxes accruing on account of the aforesaid sales. Such vendor shall remit the tax to the Director of Revenue direct, or in the event the foreign vendor procures a sales tax license to impose, collect and remit the tax, instead of its local agent, salesman or representative, such tax may be remitted and monthly reports received direct from said foreign vendor to the Director of Revenue..."

Connecticut: Ruling 30 of the Tax Commissioner provides, "...the tax does not apply where, as part of the sales agreement, the seller is required to make actual delivery outside Connecticut..."

§ 12-407(3) of the Connecticut Statutes provides, "...The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, if the delivery is to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery..."

District of Columbia: Reg. § 401(1) provides, "...Where a registered vendor in the District undertakes to, and does in fact, as part of the retail sales consideration for which is included in the sales price, deliver the property sold to the purchaser outside the District, the gross receipts therefrom are exempt from the tax unless the property sold is for use, storage or consumption in the District.

Florida: Rule 318-1.64(2) of the State Tax Commission provides, "If goods are sold within the State of Florida, but possession is taken by the purchaser without the state, the sales tax does not apply. Possession will be considered to be taken by the purchaser without the state if (a) the dealer is obligated to deliver the goods outside the state, or (b) the dealer is, by the terms of the sale contract, obligated to deliver the goods to a common carrier or to the mails for transportation outside the state.

(3) If goods are sold within this state and possession is taken by the pu chaser within this state, the sales tax applies irrespective of the fact that the goods are to be transported outside of Florida by the purchaser immediately upon delivery..."

retail sale outside the state where the purchaser has paid a sale or use tax equal to or greater than the amount imposed by this chapter in another taxing jurisdiction the proof of payment of such tax to be according to rules and regulations made by the assessor. If the amount of tax paid in another taxing jurisdiction is not equal to or greater than the amount of tax imposed by this chapter, then the purchaser shall pay to the assessor an amount sufficient to make the tax paid in the other taxing jurisdiction and in this state equal to the amount imposed by this chapter."

11. MARYLAND: Article 81 § 375 (c) of the Annotated Code of Maryland provides, "The use, storage or consumption in this State of the following tangible personal property is hereby specifically exempted from the tax imposed by this subtitle:...(c) When excise tax imposed. Tangible personal property upon the sale of which or upon the gross receipts received from the sale of which an excise tax equal to or greater than that hereby, levied has been imposed under the laws of any state or territory of the United States of America, or of any political subdivision thereof, or the District of Columbia. If the tax paid...is less than that imposed by this subtitle and the tax computed at the rate of such other tax in accordance with the formula set forth in § 373(d) of the subtitle shall be paid to the Comptroller."

12. MICHIGAN: § 7.555(4)(e) of the Michigan Statutes Annotated provides "Tax on use, storage, consumption of tangible personal property; exceptions. The tax hereby levied shall not apply to...Property subjected to foreign tax. (e) Property the sale or use of which has already been subjected to a sales tax or use tax equal to or in excess of that imposed by this act under the law of any other state of the United States. Provided, That if the sale or use of property has already been subjected to a tax under the law of any other state in an amount less than the tax imposed by this Act, the provisions of this act shall apply, but at a rate measured by the difference only between the rate herein provided and the rate by which the previous tax was computed: Provided, such tax was due and paid on the retail sale to the consumer as consumer is defined in this Act: Provided, further, that the state in which the tax was imposed accords like or complete exemption on property the sale or use of which was subjected to the Michigan sales or use tax."

13. MISSISSIPPI: § 10146-02 of the Mississippi Code Annotated provides, "The tax levied by this Act shall not be collected in the following instances: (a) On the use, storage or consumption of any tangible personal property or service if the sale thereof has already been included in the measure of the tax...or has already been included in the measure of a sales or use tax imposed by some other state. If the rate of sales or use tax paid another state by the persons using the property in Mississippi is not equal to or greater than the rate imposed by this Act, then the user or purchaser shall apply the difference in these rates to the purchase price or value of the property, and pay to the Commissioner the amount of tax thus computed. Provided, however, that credit for sales or use tax paid to another state shall not apply in the following instances: (1) On the use of motor vehicles, or the rental thereof acquired outside this state. (2) On the rental paid in another state for use or possession of tangible personal property used in Mississippi. (3) On the purchase price of tangible personal property or service to be erected, applied or installed in this State when the income for such activities is not taxed by the Sales Tax Law. (4) On the purchase price of tangible personal property that has been only stored or warehoused in the other state, and not purchased in said state, and the first use of the property occurs in Mississippi. (5) On the use of any tangible personal property, the cost or value of which has been determined on a formula basis as distinguished from the direct accounting of specific properties. (6) On the cost or value of any property imported into this State for lease or rental by the importer to anyone exempt by Section 4(c) of the Sales Tax Law, being sales to the government."

14. MISSOURI: § 144.615 of the Missouri Revised Statutes provides, "There are specifically exempted from the taxes levied in sections 144.600 to 144.745 /use tax/...(5) tangible personal property which has been subjected to a tax by any other state in respect to its sales or use; provided, if said tax is less than the tax imposed by sections 144.600 to 144.745, said property, if otherwise taxable shall be subject to a tax equal to the difference between said tax and the tax imposed by sections 144.600 to 144.745."

15. NEW MEXICO: Section 72-17-4(C) of the New Mexico Statutes provides, "The storage, use or other consumption in this state of the following tangible personal property is specifically exempted from the tax imposed by the Compensating Tax Act of 1939...C. Property purchased outside the state, on the sales or use of which a tax equal to that imposed by the Compensating Tax Act of 1939...has been levied by some other state and which tax has been paid. The bureau shall prescribe by regulations the manner in which the payment of the tax imposed by some other state shall be established."

16. NORTH DAKOTA: § 57-40-10 of the North Dakota Century Code provides, "If any article of tangible personal property has been subjected already to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter shall apply, but at a rate measured by the difference only between the rate fixed in this chapter and the rate by which the previous tax upon the sale or use was computed. If the tax imposed in such other state is two per cent or more, then no tax shall be due on such article. The provisions of this section shall apply only if such other state allows a tax credit with respect to the retail sales and use taxes imposed by this state which is substantially similar in effect to the credit allowed by this section."

17. OKLAHOMA: 68 Okla. St. Ann. § 1404(c) provides, "The provisions of this act shall not apply...(c) in respect to the use of any article of tangible personal property on which a tax equal to or in excess of that imposed by this act /use tax/ has been paid by the person using such tangible personal property in this state or some other state of the United States. If any article of tangible personal property has already been subjected to a tax, by this or any other state, in respect to its sale or use, in an amount less than the tax imposed by this Act, the provisions of this act shall apply to it by a rate measured by the difference only between the rate herein provided and the rate by which the previous tax upon the sale or use was computed. Provided that no credit shall be given for taxes paid in another state, if that state does not grant like credit for taxes paid in Oklahoma."

18. PENNSYLVANIA: 72 P.S. s 3403-205 provides, "A credit against the tax imposed by this Act shall be granted with respect to tangible personal property or services purchased for use outside the Commonwealth equal to the tax paid to another state by reason of the imposition by such other state of a tax similar to the tax imposed by this Act; Provided, however, that no such credit shall be granted unless such other state grants substantially similar tax relief by reason of the payment of tax under this act."

19. TENNESSEE: § 67-3008 of the Tennessee Code Annotated provides, "The provisions of this chapter /sales & use tax/ shall not apply in respect to the use or consumption, or distribution or storage of tangible personal property for use or consumption in this state upon which a like tax equal to or greater than the amount imposed by this chapter has been paid in another state, the proof of payment of such tax to be according to rules and regulations made by the commissioner. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by this chapter, then the dealer shall pay to the commissioner an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by this Chapter. No credit shall be given under this section for taxes paid on tangible personal property in another state if that state does not grant credit for taxes paid on similar tangible personal property in this state."

20. TEXAS: V.A.T.S Tax.-Gen. art. 20.04 (I) provides, "...(1) Use Tax: Reciprocal Credit for Similar Taxes Paid Elsewhere. There shall be allowed as a credit to any taxpayer against the use tax imposed by this Chapter upon any tangible personal property, the amount of any like tax paid by that taxpayer in another state territory or possession of the United States of America with respect to the sale, purchase or use of such property; provided that such other states, territories, or possessions provide for a similar tax credit for taxpayers of this state."

21. WISCONSIN: § 77.53 (16) of Wisconsin Statutes Annotated provides, "Imposition of Use Tax... (16) If the purchase, rental or lease of taxable tangible personal property subject to the tax imposed by this section was subject to a sales tax by another state in which said purchase was made, the amount of such sales tax so paid such other state shall be applied as a credit against and deducted from the tax, to the extent thereof, imposed by this section."

22. DISTRICT OF COLUMBIA: § 47-2706(6) of the District of Columbia Statutes provides, "...Sales upon which the purchaser has paid a retail sales tax or made reimbursements therefor to a vendor or retailer under the laws of any State or territory of the United States." are excluded from the provisions of this Act relating to the payment of use tax.

PRELIMINARY REPORT: DESTINATION OR ORIGIN BASIS OF SALES, USE OR GROSS RECEIPTS TAXES

In reviewing the applicable statutes and regulations it has been found that 37 of the 39 sales, use, and gross receipts tax states * employ "destination" standards. These states tax transactions in which the contract of sale is negotiated outside the state but delivery of the goods occurs in the state, and grant an exemption in cases where the sales contract is negotiated in a state and delivery is made outside of said state. Of these 37 states, 36 exempt transactions in which the vendor is required to deliver goods to a carrier within the state for delivery outside the state to the buyer. Mississippi treats such a contract as a transaction taxable in Mississippi.

Not included in the above-mentioned 37 states is California, which also grants an exemption where a sale is negotiated in the state and delivery is made outside of the state. However, it taxes incoming shipments pursuant to the provisions set forth below.

Alaska does not use a "destination" basis. The applicable Alaska law is set forth below.

"DESTINATION STATES"

State	Citations to State Statute or Ruling	CCH Citation (Para. No.)	Prentice Hall Citation (Para. No.)
Alabama	Rules, I14-012; I14-013; & I14-014	20-782; 20-783; 20-784	22,360; 22,361; 22,362
Arizona	Reg. 2.21	22-670	21,724
Arkansas	§ 1, Act 387 of 1953, Art. 27, Gross Receipts Tax Rules & Regs.	23-531	22,737; 21,370
Colorado	Reg. 45	26-546	21,601
Connecticut	Ruling 30, §12-407(3)	27-580; 27-025	21,630; 22,110.10
Dist. of Col.	Reg. § 401 (1)	29-508	21,540.60
Florida	Rule 318-1.64(2) § 212.06(6)	30-564; 30-073	21,636; 22,010.55
Georgia	§ 92-2150.4	31-055	22,130.50
Hawaii	OAG		21,242.20
Illinois	Reg. Art. 5 (II)	34-505	21,651.10
Indiana	Inst. 11-8, Rule 4 & 6	35-763	29,890.20 & .30
Iowa	Rule No. 55	36-615	21,617
Kansas	Art. 92-6-83	37-583	21,584
Kentucky	Reg. SU-44 (II)	38-544	21,645.10 & .15
Louisiana	Sec. 305(5)	39-075	22,220.25
Maine	Bulletin 24 & 34	41-576; 41-586	21,758; 21,768
Maryland	Rule 64	42-567	21,740.10 & .15
Michigan	Rule 41	44-641	21,380
Mississippi	OAG		21,325.40
Missouri	Reg. X(c)	47-623	21,578
Nevada	§ 372.335	51-108	22,069
New Mexico	OAG		21,246; 21,249
North Carolina	Reg. 23(a), OAG	58-523	21,534; 21,245.20
North Dakota	Rule No. 37	59-537	21,633
Ohio	Rule No. 139	60-642	21,639
Oklahoma	Reg. 26 (1251a/c/)	61-527	21,554
Pennsylvania	TB 207	63-567	22,562F
Rhode Island	Reg. No. 22	66-537	21,621
South Carolina	Reg. No. 33	67-533	21,674
South Dakota	Reg. IV	68-504	21,516
Tennessee			21,242
Texas			21,246, 21,249
Utah	Reg. 44	71-544	21,648
Washington	Rule 193	74-593	21,593
West Virginia	Reg. CUT-55	76-705	21,784-C
Wisconsin	Sec. 77.55	77-210	22,045
Wyoming	Rule 24	78-574	21,598

* For purposes of this analysis, the District of Columbia is included in thislist.

"When tangible personal property is purchased in interstate commerce for use or consumption in this state, where delivery is made in this state, and the seller is engaged in the business of selling such tangible personal property in this state for use or consumption, such sale is subject to the Retail Sales Tax regardless of the fact that the purchaser's order may specify that the goods are to be manufactured or procured outside this state and shipped directly from the point of origin to the purchaser. The seller is required to report all such transactions and to collect and remit to this state Retail Sales Tax on all such sales.

If the above conditions are met, it is immaterial (1) that the contract of sale is closed by acceptance outside the state or (2) that the contract is made before the property is brought into the state.

Delivery is held to have taken place in this state (1) when physical possession of the tangible personal property is actually transferred to the buyer within this state, or (2) when the tangible personal property is placed in the mails or on board a carrier at a point outside the state (f.o.b. or otherwise) and directed to the buyer in this state..."

Kansas: Article 92-6-83 of the regulations of the Director of Revenue provides, "...When tangible personal property is sold within the state and the seller is obligated to deliver it to a point outside the state or to deliver it to a carrier or to the mails for transportation to a point without the state, the retail sales tax does not apply, provided the property is not returned to a point within this state..."

"...However, where tangible personal property pursuant to a sale is delivered in this state to the buyer or his agent other than a common carrier, the sales tax applies, notwithstanding that the buyer may subsequently transport the property out of this state."

Kentucky: Regulation SU-48 of the Director of Revenue provides, "...The tax does not apply to gross receipts from sales in which the seller is obligated under the terms of his agreement with the purchaser, to make physical delivery of the goods sold from a point in this state to a point outside this state, not to be returned to a point within this state, provided that such delivery is actually made. The tax does not apply to gross receipts from sales in which the seller, under the terms of his agreement with the purchaser, delivers the goods by carrier or by mail from a point in this state to a point outside this state not to be returned to a point within this state."

"...The tax applies to sales of property which is: (a) shipped from a point outside this state to the purchaser in this state in a transaction in which; (1) the seller's branch office or other place of business in this state is utilized in any way, as in receiving the order or distributing the goods, or (2) the order for the goods is given in this state to an agent of an out-of-state seller, or (3) the order for the goods results from the solicitation in this state of the purchaser by an agent of an out-of-state seller even though the order is sent directly out of state by the purchaser."

Louisiana: Section 305(5) of the Louisiana Code provides, "It is not the intention of this Chapter to levy a tax upon articles of tangible personal property imported into this State, or produced or manufactured in this State for export; nor is it the intention of this act to levy a tax on bona fide interstate commerce. It is, however, the intention of this Chapter to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this State, of tangible personal property after it has come to rest in this State and has become a part of the mass of property in this State."

Maine: Bulletin 24 of the State Tax Assessor provides, "...Where a motor vehicle is sold in Maine but initial delivery is made by the seller to the customer at a point outside this state, the sales tax does not apply..."

Bulletin #34A(1) relating to rolling stock used in interstate commerce provides, "...When such an item is purchased, with delivery taken by the purchaser in Maine, sales or use tax will apply, regardless of the fact that the item is purchased for use in interstate commerce... When such an item is purchased, but delivery is in fact made by the seller or by common carrier to the purchaser at a point outside this State, tax liability will depend upon subsequent use of the item, as follows: (a) Where the item is not thereafter brought into this State, no tax will apply..."

Maryland: Rule 64 of the Comptroller of the Treasury provides, "...If goods are sold within this State, but possession is taken by the purchaser without

the State the sales tax does not apply. Possession will be considered to be taken by the purchaser without this State if: (a) The seller is obligated to deliver the goods outside the State, or (b) The seller is, by the terms of the sales contract, obligated to deliver the goods to a common carrier or to the mails for transportation outside this State. (c) Or the taxable items are sold to a person regularly engaged in interstate or foreign commerce for incorporation into or use on or by their vehicles which transport or move either passengers or property across State lines or in foreign commerce. Sales of vehicles which will regularly transport passengers or property across State lines or in foreign commerce are also exempt..."

"...If goods are purchased for use, storage or consumption in this State, the sales tax will apply, if, based upon all circumstances in the case it may fairly be said that the sale was made in Maryland, irrespective of the fact that the goods were manufactured or produced outside of Maryland and were shipped into this State from points outside thereof pursuant to the contract of sale.

In those cases in which goods are shipped into this State pursuant to a contract of sale, the sale will be considered to be made in this State if: (a) The contract of sale is entered into either conditionally or unconditionally in this State by or on account of a non-resident seller who has a place of business from which sales are made or a sales office, or is represented by a distributor who has a place of business or office in Maryland; and (b) The delivery of the goods to be sold is made by the seller to the purchaser in this State.

Delivery of goods will be considered as made in this State if either: (1) Physical possession thereof is transferred by the seller to the buyer in Maryland, or (2) The goods are shipped by the seller from points outside this State to a buyer in Maryland either by common carrier or mail whether the shipment by f.o.b. the seller's place of business or otherwise..."

Michigan: Rule 41 of the Division of Sales and Use Taxes provides, "... The ownership of or title to tangible personal property is transferred from the seller to the ultimate consumer at a point at which such property is surrendered to the buyer or to a carrier for purpose of transmission to the buyer with no further risk to the seller, therefore, where tangible personal property is located within the State at the time of sale and is delivered within the State it is taxable, regardless of the location of the seller or purchaser. It is immaterial that the purchaser may, subsequent, to the sale, transport the property out of the State or use it in interstate commerce.

Where a purchaser does not accept delivery or title to such property but does direct the seller to deliver it to a destination outside the State, at the risk of the seller, and the seller performs accordingly, title to such property passes at destination and is not taxable..."

Mississippi: A tax Commission ruling provides that the taxability of sales of merchandise shipped out of state depends upon the contract with the purchaser. If the contract calls for delivery to an out-of-state purchaser in Mississippi or for delivery to a carrier, and the seller's duty ends there, the proceeds of the sale are taxable without violating the interstate commerce clause. But if the contract of sale calls for delivery out of state, such sale is not taxable.

Missouri: Regulation X of the Director of Revenue provides, "...When tangible personal property is sold at retail within the state and the seller is obligated under his contract of sale to deliver it to a point outside the state, or to deliver it to common carrier or to the postal authorities for transportation to the point of destination outside the state, the sales tax does not apply, provided, the property is not returned to a point within the state for use or consumption.

Tangible personal property delivered to the purchaser in this state or to an authorized agent of the purchaser in this state, notwithstanding the fact that the purchaser may subsequently transport the property out of this state, the sales tax applies...

Nevada: Section 372.335 of the Nevada Statutes provides, "There are exempted from the computation of the amount of the sales tax the gross receipts from any sale of tangible personal property which is shipped to a point outside this state pursuant to the contract of sale by delivery by the vendor to such point by means of: (1) Facilities operated by the vendor; (2) Delivery by the vendor to a

carrier for shipment to a consignee at such point; or (3) Delivery by the vendor to a customs broker or forwarding agent for shipment outside this state."

NEW MEXICO *

North Carolina: Ruling 33 of the Commissioner of Revenue provides, "Sales within the state of tangible personal property which the vendor delivers to the purchaser at a point outside the state, or which the vendor delivers to a common carrier or to the mails for transportation and delivery to the purchaser at a point outside the state are not subject to the tax..."

An Attorney General's opinion dated April 23, 1954, provides that a sale invoiced outside North Carolina is subject to sales tax if shipment and delivery take place in North Carolina.

North Dakota: Rule # 37 of the Tax Commissioner provides, "When tangible personal property is sold...by a North Dakota retailer, as an essential part of the sales transaction, the seller is obligated to, and actually does, deliver such property from a point in North Dakota to the purchaser at a point in another state and the goods are not to be returned to this state, the sale is in interstate commerce and is not subject to the sales tax. "

"...Where the seller actually delivers possession of the goods to the buyer ...within North Dakota,...the tax applies."

"Where sales of tangible personal property are made within North Dakota by salesman...residing outside this state and the property is delivered in this state, the sale is subject to this tax."

Ohio: Rule 139 of the Tax Commission provides, "Sales in interstate commerce.--When tangible personal property is sold within the state and the vendor is obligated to deliver it to a point outside of the state, or to deliver it to a carrier or to the mails for transportation to a point outside the state, the Ohio sales tax does not apply. However, where tangible personal property pursuant to a sale is delivered in this state to the buyer or to an agent of his other than an interstate carrier the retail sales tax applies notwithstanding that the buyer may subsequently transport the property out of the state."

Oklahoma: Reg. 26 (1251a/c/) of the Tax Commission provides, "If the title or possession of tangible personal property passes in this state, the sale is subject to tax notwithstanding the property has moved or will move in interstate commerce."

Pennsylvania: TR 207 of the Bureau of Sales and Use Tax provides, "All transactions in which delivery is made to locations within the Commonwealth are subject to the tax."

"Delivery in Pennsylvania to a non-resident purchaser does not make the transaction exempt."

"Transactions in which delivery is made to locations outside the Commonwealth are not subject to tax."

Rhode Island: Reg. # 22 of the Tax Administrator provides, "When tangible personal property is sold within the state and the seller is obligated to deliver it to a point outside of the state or to deliver it to a carrier or to the mails for transportation to a point outside the state, the retail sales tax...does not apply."

"Where tangible personal property pursuant to a sale is delivered in this state to a buyer..., the retail sales tax applies..."

South Carolina: Reg. 33 of the Tax Commission provides, "Interstate commerce regulations.--Goods coming into this state. When tangible personal property is purchased for use or consumption in this state and (1) the seller is engaged in the business of selling such tangible personal property in this state for use or consumption and (2) delivery is made in this state, such sale is subject to the sales tax. Such sale is taxable regardless of the fact that the purchaser's order may specify that the goods are to be manufactured or procured by the seller at a specified point outside this state and shipped directly to the purchaser from the point of origin.

2. Goods shipped from this state. When tangible personal property is sold within the state and the seller is obligated to deliver it to a point outside of the

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* See page 9.

state or to deliver it to a carrier or to the mails for transportation to a point outside the state, the retail sales tax does not apply, provided that the property is not returned to a point within the state."

South Dakota: Reg. IV of the Commissioner of Revenue provides, "Where tangible personal property is located within the state of South Dakota at the time of the sale and pursuant to and as part of the sale does not leave the state, the entire sale and delivery having taken place in South Dakota irrespective of whether the purchaser is a non-resident of the state or not, the sale is within the retailer's occupational sales tax..."

"The tax does not extend to the gross receipts from sales in which the seller is obligated under the terms of the agreement to make physical delivery of the goods sold from a point in the state to a point outside the state not to be returned to a point within the state."

Tennessee: P.H. 21,242. "Sales made in Tennessee to non-residents are... subject to Sales Tax, even though the property purchased will later be transported out of Tennessee."

"The law taxes retail sales of personalty after it has come to rest in the state...."

Texas: P.H. 21,246 and 21,249. "Generally, the sales tax does not apply when sale is made out of state."

"Sales of tangible property is exempt when such is shipped outstate by the retailer, pursuant to sales contract, by means of facilities operated by retailer, delivery to carrier for shipment to outstate consignee or delivery to customs broker for out-of-state shipment."

Utah: Reg. 44 of the State Tax Commission provides, "Where the commodity is delivered to the buyer in this state even though the buyer is not a resident of the state and intends to transport the property to a point outside, the sale is... subject to tax."

"When tangible personal property is located within the state of Utah at the time of sale and is delivered within the state of Utah such sale is taxable irrespective of where the parties to the contract of sale are located and where the contract was made or accepted or the funds paid."

"Where tangible personal property is located within the state of Utah at the time of sale, but delivery of the articles sold is made outside of Utah...such sale shall be...exempt from Utah tax."

Washington: Rule 193 of the State Tax Commission provides, "Where tangible personal property is located in Washington at the time of its sale or is subsequently produced here and then delivered to the purchaser in Washington, the sale is taxable ...."

"The tax does not apply to gross receipts from sales in which the seller agrees to, and does, deliver the goods to the purchaser at a point outside this state."

"Sales by local vendors to persons in this state are taxable when the subject matter of the sale is shipped from points outside this state to the buyer here...."

West Virginia: Reg. CUT-55 of the State Tax Commissioner provides, "When tangible personal property located in West Virginia is sold to an out-of-state purchaser, or any other purchaser present in West Virginia at the time the sale is made, the transaction is subject to the Consumer's Tax...."

"...if the vendor delivers the property...to the purchaser's address outside of the state, the transaction is not taxable...."

Wisconsin: § 77.55 of the Wisconsin Statute provides, "There are exempted from the computation of the amount of the sales tax the gross receipts from sales of taxable tangible personal property...shipped by the seller...to a point outside this state...."

Wyoming: Rule 24 of the State Board of Equalization provides, "If tangible personal property is purchased from a retailer in another state and shipped by the retailer directly to the customer in this state, the receipts from the sale of such property are not taxable under the Sales Tax Act...."

"If tangible personal property, pursuant to a contract of sale entered into through interstate commerce, is delivered by the retailer to...a point outside the state, and the property is transported and delivered outside the state...the receipts from the sale of such property are not taxable...."

NEW MEXICO: "Goods purchased outstate and shipped instate where they are used, consumed or stored are subject to use tax.

If any person ships his product outstate without making a sale, ships unfinished products or sells products which are exempt, the value of the product before it entered interstate commerce is the basis for assessment of the tax on such business."