



*Sales & Use Tax Division  
P.O. Box 530  
Columbus, Ohio 43216-0530  
tax.ohio.gov*

March 5, 2010

Myles Vosberg  
Chairman, Compliance Review and Interpretations Committee  
Streamlined Sales Tax Governing Board

Mr. Vosberg

You requested that I comment on the Request for Interpretation submitted by Tim Maloney of Canton Chair Rental. The issue involves the interpretation of Sections 310 and 310.1 of the SSUTA. Essentially the question is whether the origin sourcing provisions of section 310.1 can apply to a short term rental business.

Ohio has adopted the origin sourcing option of section 310.1 of the SSUTA. Section 310.1B specifies that, "A member state may source retail sales, **excluding lease or rental**, of tangible personal property or digital goods to the location where the order is received by the seller if \*\*\*." (Emphasis added.) This language is provided as an exception to the general destination-based sourcing rule of Section 310 of the SSUTA. We read that provision to exclude sourcing of all leases and rentals from section 310.1.

Since leases or rentals are excluded, the sourcing for such sales must be done by the member state under the provisions of Section 310 of the SSUTA. Subsection B of section 310 deals with the sourcing of leases and rentals. Section 310B.2. states, "For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (310) A." Subsection 310A is the general rule for sourcing sales and is based on the location where the customer receives the property sold or the service provided.

It is my understanding of these provisions that a lease or rental can never be subject to origin sourcing under the provisions of Section 310.1. Thus in the type of rental Mr. Maloney describes, where there are no recurring periodic payments, the lease would have to be sourced according to subsection 310B.2., which refers back to the general destination sourcing provisions of Subsection 310A. If, as Mr. Maloney describes, the leased property is delivered by the lessor to the lessee, it would be at that location where the lessee "receives" the rented property. Thus, that would be the correct location for sourcing that rental.

Mr. Maloney's requested interpretation relies on the fact that Section 310B.2. provides that a lease or rental without recurring periodic payments is sourced the same as a retail sale. Since it is sourced "the same as" a retail sale, it should be considered to be a sale for sourcing purposes. Section 310A allows an exception to the sourcing of a retail sale for states that have adopted the provisions of Section 310.1, so Mr. Maloney argues that the provisions of section 310.1 should apply to this type of rental.

Myles Vosberg  
Page 2 of 2  
March 5, 2010

This Division issued an Information Release in December 2009 on the provisions of the destination sourcing language of section 310.1, which was adopted into Ohio law as Revised Code section 5739.033(B). The Release includes a sourcing chart. A copy of the Release and chart can be found at:

[http://tax.ohio.gov/divisions/communications/information\\_releases/sales/st\\_2009\\_03.stm](http://tax.ohio.gov/divisions/communications/information_releases/sales/st_2009_03.stm)

However, neither the Release nor the chart contains a section on rentals where there is no recurring payment requirement.

I spoke with Mr. Maloney and a representative of the Chamber of Commerce prior to the filing of this Request and suggested this process as a possible way to resolve their question. I cannot say I have received other inquiries on this point.

Ohio is interested in the result of this Interpretation Request on the proper interpretation of section 310B.2. Based on this interpretation we will review our Information Release and chart and make any appropriate revisions.

Thank you for the opportunity to comment.

William A. Riesenberger  
Counsel - Sales & Use Tax Division  
Telephone: (614) 466-8394  
FAX: (614) 995-5797