

**STREAMLINED SALES AND USE TAX AGREEMENT**  
**COMPLIANCE REVIEW AND INTERPRETATIONS COMMITTEE**

Interpretative Opinion 2010-02

This Interpretative Opinion recommendation is made to the Governing Board by the Compliance Review and Interpretations Committee this day of March 11, 2010, in accordance with Article IX, Rule 902 of the Rules and Procedures adopted by the Streamlined Sales Tax Governing Board, Inc.

The party requesting the interpretation is Tim Maloney. The request was made on February 17, 2010.

**Issue:**

Canton Chair Rental is an Ohio-based company located in Stark County that rents tangible personal property such as tables, chairs and other party-related items to individuals, families and companies in Stark County and other adjacent counties, all in Ohio. The normal arrangement is that these items are rented to the consumer/customer for a fee on a short-term, non-recurring basis, and not of duration of more than thirty days. The orders are received by Canton Chair Rental at its Stark County offices and the items rented are delivered to the customer at the customer's home or business by Canton Chair Rental. The issue presented is whether a renter of tangible personal property in Ohio, which has local jurisdictions that levy or receive sales or use taxes pursuant to Section 310.1, can utilize origin-based sourcing. The requester proposes that an interpretation be made that such rentals should qualify for origin based sourcing.

**Public Comment:**

Written comments were received from Mr. Bill Riesenberger of the state of Ohio, the Equipment Leasing and Finance Association, and from Mr. Tim Maloney.

**Recommendation:**

By a unanimous vote, the Compliance Review and Interpretations Committee submits to the Governing Board a recommendation that the interpretation proposed by the requester not be accepted.

**Rationale:**

Subsection 310.1B provides: "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: ...".

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March 26, 2010

The Administrative Definitions in Part I of Appendix C of the Agreement define “lease or rental” to mean “any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration.” The transaction highlighted in Mr. Maloney’s interpretation request clearly falls within the definition of “lease or rental”. Since leases or rentals are excluded under Subsection 310.1 B, the sourcing for such sales must be done by the member state under the provisions of Section 310 of the Agreement. Subsection 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 310A."

Subsection 310A sources sales on the location where the customer receives the property. These transactions are excluded from the origin sourcing election provided in Section 310.1. As such, they are to be sourced according to Subsection 310B. If the lease payments are structured such that it falls under Subsection 310B.2 as outlined in the situation provided, the payment is then sourced under the hierarchy provided in Subsection 310A.

**Participating Committee Members:**

Larry Wilkie, Myles Vosberg, Tom Atchley, Rep. Deb Peters, and Richard Cram.