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September 2011 Sourcing of Services with Respect to Tangible Personal Property Summary Paper

The purpose of this document is to determine the need for drafting a rule for the sourcing of services with respect to tangible personal property under section 310 of the SSUTA. The rule will apply to all member states since, under the current SSUTA language, states that elect origin-based sourcing under section 310.1 can only apply origin sourcing to sales of tangible personal property (including pre-written computer software) and digital goods.

All sourcing of services follows the general provisions of section 310A of the SSUTA. That is, if the service is received by the purchaser at a location of the seller, the seller is to source the sale to that location (310A.1.). If the product is not received at a location of the seller, the seller is to source the sale to the location where the purchaser receives the service, so long as that location is known to the seller (310A.2.). If neither of the above applies, the seller is to source to a location for the purchaser available from the seller's business records (310A.3.) or to an address for the purchaser obtained during the consummation of the sale (310A.4.) If none of the above apply to the transaction, the seller is to source to the location from which the service was provided (310A.5.).

The real concern is determining the location where the purchaser "receives" the service for purposes of sections 310A.1. and 2. If the location of receipt cannot be determined, the seller is to source to an address found in its own records or obtained during the sale, or defaults to the seller's own location. Section 311B of the SSUTA defines "receive" or "receipt," with respect to sales of services, as "Making First Use of Services."

The plan is to develop a rule for determining the location of "receipt" for services with respect to tangible personal property that can be applied uniformly by all member states.

Examples of these services include testing and appraisals.