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**Sourcing of Digital Goods
Summary Paper**

The purpose of this document is to identify the need for drafting a rule for the sourcing of digital goods under section 310 of the SSUTA.

Sourcing of digital goods follows the general provisions of section 310A of the SSUTA. That is, if the digital good 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 product, 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 product was provided (310A.5.).

The concern is determining the location where the purchaser "receives" the digital product 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 digital goods, as "Taking Possession or Making First Use of Digital Goods", whichever comes first.

The sourcing of digital goods involves an interplay between SSUTA Sections 309A ("...the provisions of Section 310 apply regardless of the characterization of the product as a digital good..."), 310 (General Sourcing Rules) and 311 (defining "receive" and "receipt" for purposes of Sec. 310). In addition, Sec. 310.1 (Election of Origin-Based Sourcing) may be used by a state to source retail sales of digital goods. Rule guidance is needed to clarify how Sections 310, 310.1 and 311 apply in the sourcing of digital goods.