

A motion by South Dakota, Tennessee, Washington, and Wisconsin to adopt a rule relating to receipt of services for sourcing purposes:

Rule 311.1 – Receipt of Services Generally.

A. Except as otherwise provided in the Streamlined Sales and Use Tax Agreement, sellers of services are to source the sales of those services under the general destination sourcing regime of section 310.A of the Agreement. Section 310.A.1 provides that in cases where the service is received by the purchaser at a location of the seller, the seller is to source the service to that location under section 310.A.1 of the Agreement. If the purchaser receives the service at any other location, and that location is known to the seller, the sale of the service is sourced to that location. If the location of receipt by the purchaser is unknown to the seller of the service, the seller should source the sale of the service according to the provisions of section 310.A.3, 4 or 5 of the Agreement as appropriate.

B. In determining whether to apply the provisions of sections 310.A.1 and 310.A.2 to a sale of a service, it is necessary to determine the location where the service is “received” by the purchaser. Section 311.B of the Agreement defines “receive” and “receipt” with regard to sales of services as, making first use of services.” For purposes of applying this definition, the location (or locations) where the purchaser (or the purchaser’s donee) can potentially first make use of the result of the service is the location (or locations) of the “receipt” of the service. The location where the seller performs the service is not determinative of the location where the purchaser “receives” the service.

C. This rule and subsequent rules in the 311 series, clarify the application of the definition of “receive” or “receipt” to various categories of services to assist in applying the sourcing provisions of sections 310.A.1 and 310.A.2 to sales of services. The provisions of these rules do not affect the obligation of a purchaser or lessee to remit additional tax, if any, to another taxing jurisdiction based on the use of the service at another location.