

**Rule 311.3 – Receipt of Monitoring Services With Respect to Tangible Personal Property**

A. 1. A service requiring that the provider monitor tangible personal property for the purpose of ascertaining its location or operation or for the purpose of protecting the property from theft or damage is a “monitoring service with respect to tangible personal property.” A service that results in a change to some aspect of the property, such as its appearance or function, is not a “monitoring service with respect to tangible personal property”; such a service is a “service performed on tangible personal property” subject to Rule 311.2.

2. The monitoring of real property is not a “monitoring service with respect to tangible personal property” within the meaning of this rule.

B. 1. Except as otherwise provided in the Streamlined Sales and Use Tax Agreement or the rules adopted by the Governing Board, a purchaser “receives” a monitoring service with respect to tangible personal property within the meaning of section 311.B of the Agreement at the location of the tangible personal property with respect to which the service is provided at the time the service is provided. The service should be sourced to that location if the location is known to the seller at the time of invoicing. Receipt may occur at multiple locations if the tangible personal property with respect to which the service is provided is located in multiple locations. If, at the time of the invoice, the seller has no information as to where the service will be received, the sale is sourced, depending on the facts, under Sections 310.A.3, 310.A.4 or 310.A.5 of the Agreement.

2. If the primary result of a service with respect to tangible personal property is the preparation and delivery of a report, the service is received at the location where the purchaser receives and can make first use of the information contained in the report. The service should be sourced to that location if the location is known to the seller at the time of invoicing. Receipt may occur at multiple locations if the seller is required to deliver the report to the purchaser or the purchaser’s donee at multiple locations. In that case, it will be presumed that the seller does not have information as to the location at which the purchaser will make first use of the service and the transaction should be sourced under Section 310.A.3, 310.A.4, 310.A.5, depending on the facts.

C. The following examples illustrate the proper determination of the location of “receipt” for monitoring services with respect to tangible personal property.

1. A service provider is engaged by a large multi-state purchaser to remotely monitor its equipment located in all fifty states from the service provider's monitoring center located in State A. The purchaser has engaged the service provider to perform remote monitoring service of its equipment to ensure the purchaser’s equipment is properly working and to notify the customer if the equipment is not working correctly. The service provider will call third party vendors on behalf of the purchaser to take corrective action for equipment that is not working correctly. The multi-state purchaser is required to provide the service provider the full street address location of the equipment that is being monitored. The contract states that a single charge will be billed for this monitoring service. The service

provider should use a consistent reasonable method to allocate the single charge among the various taxing jurisdictions where the equipment being monitored is located. The appropriate state and local taxes should be calculated for and sourced to each location according to the provisions of Section 310.A.2. of the Agreement. The transaction is sourced to State A, only to the extent the customer has equipment in State A that is to be monitored by seller.

2. Same facts as in Example C.1..a above except that the seller has multiple monitoring centers. The transaction should be sourced the same as in the example above. The locations of the seller's monitoring centers are not relevant.

3. Same facts as in C.1.a above except that the seller has no information regarding the location of the equipment being monitored. Instead of dispatching third parties to take corrective action for equipment that is not properly functioning, the provider notifies the purchaser whenever any of the equipment is not operating properly and the purchaser takes its own corrective action. Since the location of the equipment being monitored is unknown to the service provider, it cannot source the transaction based on the purchaser's receipt of the service at the various locations of the equipment. Therefore, the transaction should be sourced according to the provisions of section 310.A.3, 310.A.4, or 310.A.5 of the Agreement, depending on the facts.

4. A theater company from State B contracts to perform a play at an auditorium in State A for five nights. The theater company hires a security company to provide guards to protect the scenery, props and costumes it brings to the auditorium for use in performing the play. The theater company receives the service of the security company at the auditorium in State A since that is the location of the property being guarded at the time the security service was being provided. The transaction is sourced to State A.