

A motion by Ohio to amend Section 310 of the Streamlined Sales and Use Tax Agreement relating to Sourcing by providing a small delivery seller exception:

Section 310: GENERAL SOURCING RULES

- A. Except as provided in subsection (E) of this section, the ~~The~~ retail sale, excluding lease or rental, of a product shall be sourced as follows:
1. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
 2. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.
 3. When subsections (A)(1) and (A)(2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.
 4. When subsections (A)(1), (A)(2), and (A)(3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.
 5. When none of the previous rules of subsections (A)(1), (A)(2), (A)(3), or (A)(4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

- B. The lease or rental of tangible personal property, other than property identified in subsection (C) or subsection (D), shall be sourced as follows:
1. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (A). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.
 2. 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 (A).
 3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.
- C. The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (D), shall be sourced as follows:
1. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.
 2. 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 (A).

3. This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.
- D. The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (A), notwithstanding the exclusion of lease or rental in subsection (A).
“Transportation equipment” means any of the following:
1. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.
 2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers, or passenger buses that are:
 - a. Registered through the International Registration Plan; and
 - b. Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.
 3. Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.
 4. Containers designed for use on and component parts attached or secured on the items set forth in subsections (D)(1) through (D)(3).
- E.
1. A member state that has local jurisdictions that levy sales or use taxes may elect to provide small delivery sellers the option to pay or collect tax according to the provisions of this subdivision on those delivery sales sourced to that state.
 - a. For any delivery sale made from a seller’s permanent retail location in that state, the small delivery seller would pay or collect tax at the rate applicable according to the laws of the state.

- b. For any delivery sale made from a seller's location outside that state, the small delivery seller would pay or collect tax at a single statewide rate that shall not exceed the lowest combined rate applicable in any jurisdiction in that state.
2. A small delivery seller that elects to source its sales under division (E)(1) of this section shall be required to provide notice to purchasers, on its invoice or similar document provided with the sale, that it is collecting tax as a small delivery seller according to the laws of that state.
3. A purchaser that has paid tax to a small delivery seller that pays or collects tax under subdivision (E)(1)(a) or (b) of this section shall not be liable for any additional local use tax as a consumer unless the purchaser subsequently moves the property to another taxing jurisdiction.
4. Any member state that adopts the provisions of subsection (E)(1)(a) of this section shall provide a purchaser that pays tax to a small delivery seller that pays or collects tax under subdivision (E)(1)(a) of this section on any delivery sale that would otherwise be sourced under subsection (A) of this section to a local jurisdiction with a combined state and local tax rate that is less than the rate charged by the seller with the opportunity to apply for a refund of the difference between the two rates within the time period specified under the state's laws for the filing of other sales and use tax refund claims.
5. Distribution of the tax revenue collected for local jurisdictions within a member state pursuant to subsections (E)(1)(a) and (b) of this section shall be made according to the laws of that member state.
6. As used in subdivision (E) of this section:

- a. “Delivery sale” means a taxable sale of tangible personal property or a service that is sourced under subdivision (A) of this section to a taxing jurisdiction within a member state where the seller does not have a permanent retail location.
 - b. “Small delivery seller” means a seller of tangible personal property or services that has total delivery sales in the member state of less than \$500,000 in the previous calendar year and that does not use one of the three methods of calculating tax due and making remittances provided in section 403 of this Agreement.
 - c. “Taxing jurisdiction” means a state or a political subdivision of a state, or portion thereof, in which the aggregate state and local tax rate is uniform.
7. The use of an alternative rate in subdivisions (E) of this section shall not violate Section 308 of this Agreement.