

DEPARTMENT OF STATE REVENUE

Information Bulletin #96
Sales Tax
March 2024
Effective Date: January 1, 2024
(Replaces Bulletin #96, dated October 2022)

SUBJECT: Sourcing Rules

REFERENCES: [IC 6-2.5-13](#)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this bulletin has been updated to remove language referring to there being two economic thresholds. The 200 transaction threshold was removed as part of Senate Enrolled Act (SEA) 228 (2024).

INTRODUCTION

Whether or not a transaction is sourced to Indiana, meaning whether the transaction is considered made in Indiana and therefore subject to Indiana sales tax (i.e., sourced to Indiana), or considered a transaction made in another jurisdiction (i.e., sourced to that jurisdiction) subject to that jurisdiction's tax, primarily depends on the location of where the purchaser receives the tangible personal property or services.

When a transaction is sourced to a location, it is subject to the sales tax rules of that jurisdiction. If a transaction is sourced to Indiana, it is subject to Indiana sales tax and the laws pertaining to sales tax, including economic nexus provisions, exemptions, and so on. Likewise, if a transaction is sourced to another jurisdiction, then the sales tax and laws of that state apply.

The purpose of this bulletin is to describe the various sourcing rules. The rules differ depending on whether the transaction is a sale or a lease/rental. There are also different rules for sourcing various types of tangible personal property, including advertising and promotional material, motor vehicles, and floral products.

NOTE: The statutory sourcing rules found in this bulletin were enacted in 2003 and superseded any rules concerning "freight on board" origin or destination previously enforced by the department. Further, contractual terms relating to transfer of title or risk of loss are not relevant when sourcing a transaction.

RECEIPT OF TANGIBLE PERSONAL PROPERTY

For the purposes of this bulletin, the terms "receive" and "receipt" mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods, whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

GENERAL SOURCING RULES FOR SALES

The retail sale of a product (except those products described in Sections IV through VII) is sourced as follows in the following order:

1. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

Example #1: A customer physically shops at a hardware store located in Indianapolis. They purchase a tool while in the shop. Since the customer took receipt of the tool within the store, the sale is sourced to Indiana.

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.

Example #2: A customer located in Kentucky purchases a tool online from the website of a hardware store located in Indianapolis. The tool is shipped to the customer in Kentucky. Since the customer took receipt of the tool in Kentucky, the sale is sourced to Kentucky, which makes it is subject to Kentucky's sales tax and Kentucky's sales tax rules, including any economic nexus requirements.

3. If neither of the above 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.

Example #3: A business places an order for an item over the phone from a vendor located in Indiana. The customer arranges shipping of the item. The customer has multiple locations, but provides an address located in Indiana when the vendor asked for contact details to set up an ongoing account with the vendor. The vendor does not know where receipt took place of the item, because collection by a third-party shipper arranged by the customer does not constitute receipt by the customer, and the customer did not state where the shipper would deliver the item. Therefore, sourcing of the item is Indiana based on the address the customer provided to set up their account.

4. If none of the above 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.

Example #4: Same facts as *Example #3*, except the customer did not set up an account and did not provide an address for their business. However, an address was obtained in relation to the payment details. The vendor does not know where receipt took place of the item. Therefore, sourcing of the item is Indiana based on the address provided for their payment.

5. Finally, if none of the four options above 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).

Example #5: Same facts as *Example #3*, except the customer did not provide an address to set up an account or in relation to the payment details. The vendor does not know where receipt took place of the item. Therefore, sourcing of the item is Indiana based on the vendor's location from where the item shipped.

GENERAL SOURCING RULES FOR RENTALS AND LEASES

For a lease or rental of tangible personal property (other than of motor vehicles, trailers, semitrailers, and aircraft, which is discussed in Sourcing of Rentals and Leases of Motor Vehicles, Trailers, Semitrailers, and Aircraft section below) that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions in the General Sourcing Rules for Sales. 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.

Example #6: A customer in Illinois rents audiovisual equipment from a vendor in Indiana. They will be renting the equipment for six months. Payment is made upon receipt with five subsequent monthly payments. The customer picks up the equipment in Indiana but will be using the equipment in Illinois. Receipt occurred in Indiana, so the first payment is sourced to Indiana.

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 in the General Sourcing Rules section above.

NOTE: These rules do not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or an accelerated basis, or on the acquisition of property for lease.

SOURCING OF RENTALS AND LEASES OF MOTOR VEHICLES, TRAILERS, SEMITRAILERS, AND AIRCRAFT

The lease or rental of motor vehicles, trailers, semitrailers, or aircraft (other than those which qualify as transportation equipment, discussed below in Sourcing of Transportation Equipment section) that requires recurring periodic payments, requires each periodic payment to be sourced to the primary property location. The primary property location is 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 the business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

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 in the General Sourcing Rules section above.

Please see Sales Tax Information Bulletin #28L (available online at in.gov/dor/legal-resources/tax-library/information-bulletins/sales-tax-information-bulletins/) for further information and examples on the sourcing of the leasing of motor vehicles and trailers.

NOTE: These rules do 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.

SOURCING OF TRANSPORTATION EQUIPMENT

The retail sale, including lease or rental, of transportation equipment is sourced the same as a retail sale in accordance with the provisions in the General Sourcing Rules section above. Even though this pertains to leases and rentals, the provisions in General Sourcing Rules for Rentals and Leases section above do not apply.

"Transportation equipment" means any of the following:

- Locomotives and railcars that are used for the carriage of persons or property in interstate commerce.
- Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of 10,001 pounds or greater, trailers, semitrailers, or passenger buses that are:
 - registered through the International Registration Plan; and
 - 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.
- 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.
- Containers designed for use on and component parts attached or secured on the items set forth in the bullet points above.

SOURCING OF FLORAL PRODUCTS

A retail sale of floral products in which a florist or floral business takes a floral order from a purchaser and transmits the floral order by telegraph, telephone, or other means of communication to another florist or floral business for delivery is sourced to the location of the florist or floral business that originally takes the floral order from the purchaser.

Example #7: An Indiana customer orders a bouquet of flowers for their spouse from a florist located in the same city as the customer. However, the order is made online, and the florist uses a national floral business to fulfill the order. The bouquet is made in Ohio and delivered to the customer Indiana. Regardless of where the bouquet ships from, the original florist is located in Indiana, so the sale is sourced to Indiana.

SOURCING OF ADVERTISING AND PROMOTIONAL DIRECT MAIL

Please see Sales Tax Information Bulletin #54 (available online at the link above) for information on the sourcing of advertising and promotional direct mail.

A NOTE ABOUT ECONOMIC NEXUS

As mentioned in the introduction, a transaction sourced to Indiana is subject to Indiana's economic nexus rules. Out-of-state merchants selling into Indiana based on the above sourcing rules need to be aware of Indiana's economic nexus threshold. Please see Sales Tax Information Bulletin #89 (available online at the link above) for information on economic nexus rules for remote sellers.

Likewise, an Indiana merchant selling into another state should take note that they may be subject to economic nexus rules of that state. Indiana merchants should check with the tax or revenue departments of each state into which they sell in order to determine their economic nexus rules (if any). Other resources may be available through Streamlined Sales Tax (streamlinedsalestax.org/), the Multistate Tax Commission (mtc.gov/), and the Federation of Tax Administrators (taxadmin.org/).

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