

USE TAX ACT (EXCERPT)
Act 94 of 1937

205.110 Sourcing requirements.

Sec. 20. (1) For sourcing a sale subject to tax under this act, the following apply:

(a) If a product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) If a product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where the product is received by the purchaser or the purchaser's designee, including the location indicated by instructions for delivery to the purchaser, known to the seller.

(c) If subdivision (a) or (b) does not apply, the sale is sourced to the location indicated by an address for the purchaser available from the seller's business records maintained in the ordinary course of the seller's business, provided use of the address does not constitute bad faith.

(d) If subdivisions (a) through (c) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained at the completion of the sale, including the address of the purchaser's payment instrument if no other address is available, provided use of the address does not constitute bad faith.

(e) If subdivisions (a) through (d) do not apply or the seller has insufficient information to apply subdivisions (a) through (d), the sale will be sourced to the location indicated by the address from which the tangible personal property was shipped or from which the computer software delivered electronically was first available for transmission by the seller.

(2) For sourcing the lease or rental of tangible personal property, other than property included in subsection (3) or (4), subject to tax under this act, the following apply:

(a) For a lease or rental requiring recurring periodic payments, the first payment is sourced in the same manner provided for a sale in subsection (1). Subsequent payments shall be sourced to the primary property location for each period covered by the payment as indicated by the address of the property provided by the lessee and available to the lessor from the lessor's records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not considered altered by intermittent use at different locations such as business property that accompanies employees on business trips or service calls.

(b) For a lease or rental not requiring recurring periodic payments, the payment is sourced in the same manner provided for a sale in subsection (1).

(3) For sourcing the lease or rental of motor vehicles, trailers, semitrailers, or aircraft that are not transportation equipment, the following apply:

(a) For a lease or rental requiring recurring periodic payments, each payment is sourced to the primary property location as indicated by the address of the property provided by the lessee and available to the lessor from the lessor's records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not considered altered by intermittent use at a different location.

(b) For a lease or rental not requiring recurring periodic payments, the payment is sourced in the same manner provided for a sale in subsection (1).

(4) The lease or rental of transportation equipment shall be sourced in the same manner provided for a sale in subsection (1).

(5) Subsections (2) and (3) do not affect the imposition or computation of the tax under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(6) As used in this section:

(a) "Receive" and "receipt" mean 1 or more of the following but exclude possession by a shipping company on behalf of the purchaser:

(i) Taking possession of tangible personal property.

(ii) Making first use of services.

(b) "Transportation equipment" means 1 or more of the following:

(i) Locomotives and railcars utilized for the carriage of persons or property in interstate commerce.

(ii) Trucks and truck-tractors with a gross vehicle weight rating of 10,001 pounds or greater, trailers, semitrailers, or passenger buses, which are registered through the international registration plan and operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(iii) Aircraft operated by air carriers authorized and certificated by the United States department of transportation or other federal or foreign authority to transport air cargo or passengers in interstate or foreign commerce.

(iv) Containers designed for use on or component parts attached or secured to the equipment included in subparagraphs (i) to (iii).

(7) A person may deviate from the sourcing requirements under this section as provided in section 12 or 13.

History: Add. 2004, Act 172, Eff. Sept. 1, 2004.

Compiler's note: Former MCL 205.10, which pertained to jeopardy assessments, was repealed by Act 165 of 1980, Eff. Sept. 17, 1980.