

Administrator Roundtable

MUNIREvs

How often do you log into the MUNIREvs system?

- 1+ times per day
- 1+ times per week
- 1+ times per month
- I don't know how to log in or I don't know if I have log in credentials

What is your comfort level in using the MUNIREvs system?

Not comfortable Very comfortable
1 2 3 4 5

Can you run the reports to meet your jurisdiction's needs?

- Yes
- No
- Not sure

What reports do you currently run in the MUNIREvs system?

What additional reporting does your jurisdiction need?

TTR

In your role as a Jurisdiction Tax Administrator, do you use the TTR tax map to look up information about tax law for your community?

- Yes
- No
- Not sure

Do you get questions from either buyers or sellers about the TTR information for your community? Please list examples of questions or concerns.

- Yes
 - No
 - Not sure
-

Do you refer either buyers or sellers to the TTR tax map to look up tax information for your community?

- Yes
- No
- Not sure

Training:

Go through seller filing

Go through batch reports

Go through individual reports

- Tailor based on feedback about reporting needs identified through survey

Other:

Incorrect sales tax assessment – process for buyers/sellers/jurisdictions/ARSSTC

Refunds – process for sellers/jurisdictions/ARSSTC

Contacting sellers

- Physical presence businesses – process for jurisdictions/sellers /ARSSTC
- Audits – process for jurisdictions/ARSSTC/sellers
- Exemptions (same as audit)

Delinquent filers – process for ARSSTC

Online businesses that do/do not collect sales tax – process for buyers/jurisdictions/ARSSTC

Quarterly filing

Amended returns

2020-08 INTERPRETATION

RENTALS / LEASES OF TANGIBLE OR INTANGIBLE PROPERTY

Issue:

Clarifying physical presence and reporting requirements with regards to rentals and leases of both tangible property and intangible property.

Discussion:

The definition of Physical Presence in the Uniform Code includes the situation where a seller:

“[r]ents or leases property located within the boundaries of the local taxing jurisdiction.”

Accordingly, Section 230(A) of the Uniform Code establishes that the lessor/seller should report and remit directly to the taxing jurisdiction where the property is physically located during the rental or lease.

Rented or leased property includes tangible personal property that is eventually returned or purchased after the rental or lease term ends. This includes such property such as video rental kiosks, cell phone towers, construction equipment, copy or postage machines, specialized cell phone equipment, etc.

Rentals or leases of intangible property which, by their nature are not physically located within a local taxing jurisdiction do not create physical presence with the local taxing jurisdiction.

Recommendation:

Rentals or leases of tangible property should be reported directly with the jurisdiction where the property is physically located.

Rental or leases of intangible property are considered remote sales and should be filed through the ARSSTC portal.

A lessor with rentals or leases of both tangible and intangible property into the same taxing jurisdiction should report both types of rentals / leases directly with the jurisdiction in question.

Rationale:

Tangible property is by definition physical, therefore the definition of physical presence in the Uniform Code applies to rentals or leases of tangible property since tangible property can be physically located in a location. Under Section 230(A) of the Uniform Code, the lessor/seller of the tangible property should report and remit directly to the taxing jurisdiction where the property is physically located during the rental or lease term.

Intangible property is by definition not physical; therefore the definition of physical presence in the Uniform Code does not apply to rentals or leases of intangible property since intangible property cannot be physically located in a location. Rentals / leases of intangible property do not create a physical presence and are addressed in Section 230(D) requiring these rentals / leases to be reported directly to the ARSSTC.

There may be situations where a lessor/seller is leasing both tangible property and intangible property into a taxing jurisdiction. In these cases, Section 230(C) would apply, requiring the leases of both the tangible and intangible property to be reported to the taxing jurisdiction. This filing requirement would remain in place for the calendar year following the last presence of leased tangible property in the taxing jurisdiction (*see Section 250 – definition of “physical presence”*).

2021-02 INTERPRETATION

REMOTE SELLERS WITH SPORADIC PHYSICAL PRESENCE

Issue:

Some businesses primarily conduct remote sales into taxing communities, but occasionally their business activities may introduce physical presence in a particular community. Does sporadic physical presence require the business to comply year-round with physical presence filing requirements, even if subsequent filings are for remote sales?

Discussion:

Physical Presence is defined in the Uniform Code as follows:

“Physical presence” means a seller who establishes any one or more of the following within a local taxing jurisdiction:

- 1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;*
- 2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller’s ability to establish or maintain a market for its products in this state.*
- 3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;*
- 4. Rents or Leases property located within the boundaries of the local taxing jurisdiction.*

A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

The last clause of the definition of physical presence states that once physical presence is established in a jurisdiction in any calendar year, the physical presence is deemed to continue for the following calendar year.

Recommendation:

Sellers conducting remote sales into jurisdictions should also monitor if they conduct business activity into that jurisdiction that could establish physical presence in that jurisdiction.

If physical presence is established in a member jurisdiction, the seller should review and apply Section 230 of the Uniform Code to determine its reporting requirements.

Rationale:

Certain types of sellers do periodically establish physical presence in a taxing jurisdiction which is temporary or incidental in nature. The Commission and its member jurisdictions agree that it is important to provide sellers with a specific measurement on how long a seller’s temporary physical presence is considered to be in place.

The definition of Physical Presence provides this measurement by outlining that physical presence remains in effect for the calendar year following the establishment of the temporary physical presence. This measurement prevents frequent changes to a seller’s filing requirements on sales in the State of Alaska.