



## Interpretation 2021.05

### REMOTE SERVICES AND SOURCING / POINT OF DELIVERY

#### **Issue:**

When is a service considered to be a remote service and how is the point of delivery determined?

#### **Applicable Uniform Code Sections:**

Section 270 of the Uniform Code provides the following definitions:

*Remote Sales – means sales of goods or services by a remote seller or marketplace facilitator.*

*Remote Seller – means a seller or marketplace facilitator making sales of goods or services for delivery within the State of Alaska without having a physical presence in the member jurisdiction in which delivery is made.*

*Services – means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise into a member jurisdiction including but not limited to:*

- A. Professional services;*
- B. Services in which a sale of property or product may be involved, including property or products made to order;*
- C. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;*
- D. The sale of transportation services;*
- E. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;*
- F. Advertising, maintenance, recreation, amusement, and craftsman services.*

*Point of delivery – means the location at which property or a product is delivered or service is rendered.*

- C. When the service is not received by the purchaser at a business location of a remote seller, the service is considered delivered to the location where the purchaser receives the service.*
- D. For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.*

*Receive or receipt – for purposes of section .030 and the definition of “point of delivery” means:*

- A. Taking possession of property or product;*
- B. Making first use of services; or*

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*C. Taking possession or making first use of digital goods, whichever comes first.*

*Physical presence – for purposes of section .050 means a seller who establishes any one or more of the following within a member jurisdiction:*

- 1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the member jurisdiction;*
- 2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the member jurisdiction;*
- 3. Provides services or holds inventory within the boundaries of the member jurisdiction;*
- 4. Rents or leases property located within the boundaries of the member jurisdiction.*

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

## **Interpretation**

Per the above definitions in the Uniform Code, a service is taxable as a remote sale if the seller does not have a physical presence in the member jurisdiction in which the service is delivered. Physical presence would be established in the member jurisdiction if, during the course of performing a service, the service provider physically visits or physically performs a service within the jurisdiction. This physical presence will carry-forward to the next full calendar year.

Point of delivery for services is considered the place where the service is rendered. The concept of “service rendered” is used to help convey the fact that the agreed upon service which is deliverable to the purchaser has in fact been delivered to the purchaser. The location where the “service is rendered” is the location where the purchaser receives the service. It is important to note that the location where the service is physically performed is not necessarily the same location as where the “service is rendered”.

Finally, the location where the purchaser first takes receipt of services is the location where the purchaser “makes first use of services” as found in the definition of “receive or receipt” in the Uniform Code.

It is important to note that sales of goods or services are sourced in the same manner under the Uniform Code in that both are taxed based on the destination principle i.e. where the purchaser takes receipt. This approach of using the same sourcing principle regardless of type of transaction is beneficial to help avoid the debate over whether the transaction is a sale of goods or services.

## **Summary:**

Services are considered to be “remote sales” if two primary conditions are met:

- 1) The service is delivered into a taxing jurisdiction that is a member of the ARSSTC and,

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- 2) The service provider does not have physical presence in the member jurisdiction where the service is received by the purchaser.

Services are frequently performed in multiple locations over the course of the service. For example, some services may require a visit to the customer's place of business or other location. Then the remainder of the service may occur in the service provider's office. Under the Uniform Code, only one location determines the applicable sales tax; the point of delivery i.e. where the purchaser receives the service and first makes use of the service.

If the point of delivery is in an ARSSTC member jurisdiction, and the service provider has not created a physical presence in the member jurisdiction, then the service is a remote sale. If the point of delivery is in a jurisdiction where the service provider has created physical presence, then the service is not a remote sale.

### Example Services

Following are some example types of services that may be categorized as either remote sales or local sales. These examples are only provided as a general resource. If a transaction is not specifically addressed in these examples, please contact the ARSSTC for a more formal determination of your transaction.

Several of these example service scenarios involve the performance of a service with a physical or electronic good as the end result of the service. This type of transaction is called a "mixed transaction" and generally calls for analysis using the True Object Test.

For reference, the True Object Test is typically used to help determine if a transaction is the sale of a good or the sale of a service. This test is most used by taxing jurisdictions that don't tax services but do tax sales of goods. Some "mixed transactions" contain elements of both a service and a good so the True Object Test is used to help determine taxability.

When applying the True Object Test to these example transactions, a particular transaction may be best categorized as the purchase of a good (tangible or intangible) rather than a service. However, as stated earlier in this Interpretation, the Uniform Code sources goods and services using the same destination principle.

For purposes of determining where the purchaser takes receipt in these example transactions, the location where the purchaser receives the resulting physical or electronic good can be used as the point of delivery of the transaction, even if the true object of the transaction is not the resulting good.

### Advertising Services

- Digital / electronic advertising
- Television advertising

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- Radio advertising
- Print media advertising

Each of these types of advertising services typically involve the preparation & publication of either a digital audio/visual advertisement or an electronic document for use in print media.

In general, each of these advertising services are physically prepared & published at the seller's business location. However, the end result of the rendered service, a digital copy of the ad itself, is typically delivered to the purchaser electronically. As a result, the point of delivery would be the purchaser's billing address.

Accounting Services – services rendered typically involve the preparation of a tax filing, tax return or other financial document.

- If purchaser receives the rendered service (the filing / return / document) at the office of the service provider, the point of delivery is the office location.
- If purchaser receives the rendered service (the filing / return / document) at an address known to the seller, the point of delivery is the purchaser's address known to the seller.
- If purchaser receives the rendered service (the filing / return / document) electronically or a delivery address is not known to the seller, the point of delivery would be the purchaser's billing address.
- If purchaser receives the rendered service (the filing / return / document) in physical form, but not at the office of the service provider, the point of delivery is the address where the purchaser receives the rendered service.

It is important to note that if during the provision of its services, the service provider physically visits the subsequent point of delivery, physical presence will have been established at the point of delivery. Once the seller has established physical presence in the jurisdiction where the point of delivery is located, sales into that jurisdiction would not be considered remote sales and should be reported directly to the local jurisdiction.

Legal / Attorney Services – services rendered could include client representation at a legal proceeding, legal analysis for client, preparation / review of legal documents, general guidance.

Due to the varied nature of legal services, it is possible for a single legal matter to have multiple different points of delivery, depending on the work that is done for that matter. As a result, it would be appropriate for the service provider to determine a single point of delivery for the entire legal matter. That single point of delivery should be determined based on which service or type of service will likely be the prevalent service performed during the matter.

- If purchaser receives the primary rendered service at the office of the service provider, the point of delivery is the office location.
- If purchaser receives the primary rendered service at an address known to the seller, the point of delivery is the purchaser's address known to the seller.

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- If purchaser receives the primary rendered service electronically or a delivery address is not known to the seller, the point of delivery would be the purchaser's billing address.
- If purchaser receives the primary rendered service in physical form, but not at the office of the service provider, the point of delivery is the address where the purchaser receives the rendered service.

Appraisal Services – services rendered typically involve the preparation of an appraisal report for either the property owner or lending company.

- If purchaser receives the rendered service (e.g., an appraisal report) at the office of the service provider, the point of delivery is the office location.
- If purchaser receives the rendered service (e.g., an appraisal report) at an address known to the seller, the point of delivery is the purchaser's address known to the seller.
- If purchaser receives the rendered service (e.g., an appraisal report) electronically or a delivery address is not known to the seller, the point of delivery would be the purchaser's billing address.
- If purchaser receives the rendered service (e.g., an appraisal report) in physical form, but not at the office of the service provider, the point of delivery is the address where the purchaser receives the rendered service.

It is important to note that if during the performance of its services, the appraiser physically visits the subsequent point of delivery, the service provider will have established physical presence in the jurisdiction where the point of delivery is located. Once the seller has established physical presence in the jurisdiction where the point of delivery is located, sales into that jurisdiction would not be considered remote sales and should be reported directly to the local jurisdiction.

Architect / Engineering services – services rendered typically involve the preparation of designs or an engineering report and may also include one or more site visits during the service. The provision of the final design(s) or report(s) to the purchaser is considered the rendering of the service.

- If purchaser receives the rendered service (e.g., designs / reports) at the office of the service provider, the point of delivery is the office location.
- If purchaser receives the rendered service (e.g., designs / reports) at an address known to the seller, the point of delivery is the purchaser's address known to the seller.
- If purchaser receives the rendered service (e.g., designs / reports) electronically or a delivery address is not known to the seller, the point of delivery would be the purchaser's billing address.
- If purchaser receives the rendered service (e.g., designs / reports) in physical form, but not at the office of the service provider, the point of delivery is the address where the purchaser receives the rendered service.

It is important to note that if during the performance of its services, the service provider physically visits the subsequent point of delivery, the service provider will have established physical presence in the jurisdiction where the point of delivery is located. Once the seller has established physical presence in the jurisdiction

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where the point of delivery is located, sales into that jurisdiction would not be considered remote sales and should be reported directly to the local jurisdiction.

Real estate agent services – services rendered typically involve advertising and negotiating the eventual sale of real property on behalf of the owner or buyer of the property.

- The point of delivery for real estate agent services is considered to be where the subject property is located.
- If the real estate agent visited the property location during the provision of its services, physical presence in the property location's local jurisdiction would have been established.
- Establishing physical presence in the property location's jurisdiction causes the real estate agent services to no longer be remote and should be reported directly to the local jurisdiction.