

§1819. Sourcing

1. "Receive" and "receipt" defined. For the purposes of this section, "receive" and "receipt" mean:

- A. Taking possession of tangible personal property; [PL 2019, c. 401, Pt. B, §18 (NEW).]
- B. Making first use of services; or [PL 2019, c. 401, Pt. B, §18 (NEW).]
- C. Taking possession or making first use of products transferred electronically, whichever comes first. [PL 2019, c. 401, Pt. B, §18 (NEW).]

"Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser. [PL 2019, c. 401, Pt. B, §18 (NEW).]

2. Sourcing for sales of tangible personal property and taxable services; generally. The sale of tangible personal property or a taxable service is sourced in this State pursuant to this subsection. Except as provided in subsections 3 to 5, the provisions of this subsection do not apply to the lease or rental of tangible personal property.

- A. When the tangible personal property or taxable service is received by the purchaser at a business location of the seller, the sale is sourced to that business location. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- B. When the tangible personal property or taxable service 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 occurs, including the location indicated by instructions for delivery to the purchaser or donee known to the seller. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- C. For a sale when paragraphs A and B 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. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- D. For a sale when paragraphs A to C 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. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- E. When paragraphs A to D do not apply, including the circumstance in which the seller is without sufficient information to apply paragraphs A to D, the location is determined by the address from which tangible personal property was shipped, from which the tangible personal property or taxable service transferred 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 tangible personal property or taxable service sold. [PL 2019, c. 401, Pt. B, §18 (NEW).]

[PL 2023, c. 643, Pt. H, §24 (AMD); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §23 (AMD); PL 2023, c. 673, §28 (AFF).]

3. Sourcing for leases or rentals of tangible personal property. The lease or rental of tangible personal property, other than property identified in subsection 4 or 5, is sourced pursuant to this subsection.

- A. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2. Periodic payments made subsequent to the first payment are sourced to the primary property location for each time period covered by the payment. For the purposes of this paragraph, "the primary property location" is an address for the property provided by the lessee that is available

to the lessor from its records and maintained in the ordinary course of business, when use of this address does not constitute bad faith. The primary property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls. [PL 2023, c. 643, Pt. H, §25 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §24 (NEW); PL 2023, c. 673, §28 (AFF).]

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced to this State in the same manner as a sale of tangible personal property in accordance with subsection 2. [PL 2023, c. 643, Pt. H, §25 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §24 (NEW); PL 2023, c. 673, §28 (AFF).]

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals, based on a lump sum payment or on the basis of accelerated payment, or on the acquisition of property for lease.

[PL 2023, c. 643, Pt. H, §25 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §24 (NEW); PL 2023, c. 673, §28 (AFF).]

4. Motor vehicles, trailers, semitrailers, truck campers or aircraft. The lease or rental of motor vehicles, trailers, semitrailers, truck campers or aircraft that do not qualify as transportation equipment, as defined in subsection 5, is sourced pursuant to this subsection.

A. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location is 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 is not altered by intermittent use at different locations. [PL 2023, c. 643, Pt. H, §26 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §25 (NEW); PL 2023, c. 673, §28 (AFF).]

B. For a lease or rental that does not require recurring periodic payments, the payment is sourced to the State in the same manner as a sale of tangible personal property in accordance with the provisions of subsection 2. [PL 2023, c. 643, Pt. H, §26 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §25 (NEW); PL 2023, c. 673, §28 (AFF).]

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals, based on a lump sum payment or on the basis of accelerated payment, or on the acquisition of property for lease.

[PL 2023, c. 643, Pt. H, §26 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §25 (NEW); PL 2023, c. 673, §28 (AFF).]

5. Transportation equipment. The sale, including lease or rental, of transportation equipment is sourced to the State in the same manner as a sale of tangible personal property in accordance with the provisions of subsection 2. For the purposes of this subsection, "transportation equipment" means:

A. Locomotives and railcars that are used for the carriage of persons or property in interstate commerce; [PL 2023, c. 643, Pt. H, §27 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §26 (NEW); PL 2023, c. 673, §28 (AFF).]

B. Trucks and truck tractors with a gross vehicle weight rating greater than 10,000 pounds and trailers, semitrailers or passenger buses that are:

(1) Registered through the International Registration Plan; and

(2) 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; [PL 2023, c. 643, Pt. H, §27 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §26 (NEW); PL 2023, c. 673, §28 (AFF).]

C. Aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation, another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or [PL 2023, c. 643, Pt. H, §27 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §26 (NEW); PL 2023, c. 673, §28 (AFF).]

D. Containers designed for use on and component parts attached to or secured on the equipment described in paragraphs A to C. [PL 2023, c. 643, Pt. H, §27 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §26 (NEW); PL 2023, c. 673, §28 (AFF).]
[PL 2023, c. 643, Pt. H, §27 (NEW); PL 2023, c. 643, Pt. H, §29 (AFF); PL 2023, c. 673, §26 (NEW); PL 2023, c. 673, §28 (AFF).]

SECTION HISTORY

PL 2019, c. 401, Pt. B, §18 (NEW). PL 2021, c. 181, Pt. B, §6 (AMD). PL 2023, c. 643, Pt. H, §§24-27 (AMD). PL 2023, c. 643, Pt. H, §29 (AFF). PL 2023, c. 673, §§23-26 (AMD). PL 2023, c. 673, §28 (AFF).

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