



MULTISTATE INDIRECT TAX

New Mexico issues guidance for gross receipts tax destination-based sourcing rules for sales of services

Tax Alert

Overview

The New Mexico Taxation and Revenue Department (“Department”) recently updated its [guidance](#) to explain the [destination-based sourcing rules](#) applicable to New Mexico gross receipts tax filing periods starting on and after July 1, 2021.

This Tax Alert summarizes some of the guidance on sourcing sales of services.

Reporting location for the sale of services

New Mexico’s adoption of a destination-based sourcing approach for sales of services means that, with some exceptions, the reporting location will not be the location of the seller, but the location where services are performed, and/or where the product of a service is delivered. The “product of a service” may be the physical result of the service (*e.g.*, reports or plans) or something less tangible, such as a benefit to the purchaser of the service.

The guidance explains the determination of reporting location for five broad categories of services. It also provides examples to illustrate the determination of reporting locations.

Professional services

New Mexico defines “professional services” as services other than in-person services or construction-related services that require an advanced degree or a license from the state to perform. The reporting location for professional services, whether performed in New Mexico or performed outside the state where the product of the service is initially used in New Mexico, is the location where the service is performed.

Construction services and construction-related services

If gross receipts are from construction services and construction-related services performed for a construction project in New Mexico, the reporting location of the gross receipts and related deductions is the location of the construction site.

Services selling real estate

If gross receipts are from the service of selling real estate located in New Mexico, the reporting location is the location of the real estate.

Transportation services

The reporting location for gross receipts from transportation of persons or property in, into or from New Mexico is the location where the person or property enters the vehicle.

Other services

The reporting location for all other services not described above is the location where the product of the service is delivered. Consistent with rules for sale and license of property:

- If the service is delivered by the seller and received by the buyer at the seller's location, the reporting location is the seller's location; or if the service is not delivered by the seller and received by the purchaser at the seller's location, the reporting location is the location indicated by the delivery instructions for the purchaser, when known to the seller.
- If neither of these situations apply, the reporting location is based on the purchaser's address obtained from the seller's business records, or that which was obtained during the consummation of the sale.
- If the seller is without sufficient information to apply the above rules, the location from which the product of the service was shipped or transmitted to the purchaser is used. This does not include instances where the seller obtains or has access to sufficient information at the time of sale, or subsequently, but fails to maintain that information in its records. It also does not include instances where the seller has access to sufficient information from other reliable sources to make a reasonable estimate of the reporting location. The Department will not assess taxpayers for additional tax if reasonable estimates that are applied consistently and in good faith, so long as there is no obvious distortion, are used.

Other services include in-person services and advertising services:

- In-person services are those physically provided in person by the service provider, where the customer, or the customer's real or tangible personal property upon which the service is performed, must be in the same location as the service provider at the time the service is performed. If the service generally does not need to be provided physically in the presence of or upon the customer or the customer's property, it is not an in-person service. The reporting location for an in-person service is the location where the product of the service is delivered, which may be the location where the service is performed.
- Advertising services involve agreements with clients to communicate or place advertisements. The reporting location for advertising services is based on delivery of the product of the service, which is where the advertisement may be primarily heard or seen by the client's intended audience.

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