

# Non-Conforming Leasing Provisions of State Tax Law Adopting the Streamlined Sales and Use Tax Agreement

*Prepared for Equipment Leasing Association*

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## **Non-Conforming Leasing Provisions of State Tax Laws Adopting the Streamlined Sales and Use Tax Agreement**

The following provides a state-by-state analysis of provisions related to rental and leases of tangible personal property in state laws adopting the Streamlined Sales and Use Tax Agreement (SSUTA). The analysis compares each state's statutes and regulations to the provisions in the SSUTA (adopted November 12, 2002, as amended November 19, 2003). Part I describes the SSUTA provisions that were examined. Part II provides a description, by provision, of differences between state provisions and the SSUTA. (This information is summarized in state-by-state charts in the Appendix.) Part III summarizes the results of the compliance analysis.

### **I. Leasing Provisions of the Streamlined Sales and Use Tax Agreement (SSUTA)**

The following sections of the SSUTA deal with the sales taxation of lease and rental transactions. We have examined the legislation adopted by states to determine if the state law conforms to these provisions. We have also contacted state tax agency and legislative staff in a number of states for clarification of the law and information on actual and proposal rules and regulations for implementing a state's SSUTA laws.

#### **A. Sourcing Rules**

##### **Section 310: General Sourcing Rules**

**Subsection A:** The retail sale, excluding lease or rental, of a product shall be sourced as follows:

1. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
2. When the product 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, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.
3. When *Subsections A.1 and A.2* 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.
4. When *Subsections A.1, A.2, and A.3* 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.

5. When none of the previous rules of *Subsections A.1, A.2, A.3, or A.4* apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered 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 product sold).

***Subsection B:*** The lease or rental of tangible personal property, other than property identified in *Subsection C* or *Subsection D*, shall be sourced as follows:

1. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of *Subsection A*. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be 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. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.
2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of *Subsection A*.
3. This *Subsection* does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

***Subsection C:*** The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in *Subsection D*, shall be sourced as follows:

1. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be 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 shall not be altered by intermittent use at different locations.
2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of *Subsection A*.
3. This *Subsection* does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

**Subsection D:** The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of *Subsection A*, notwithstanding the exclusion of lease or rental in *Subsection A*. “Transportation equipment” means any of the following:

1. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.
2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds or greater, trailers, semi-trailers, or passenger buses that are:
  - a. Registered through the International Registration Plan; and
  - b. Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.
3. Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.
4. Containers designed for use on and component parts attached or secured on the items set forth in *Subsections D.1 through D.3*.

#### **Summary of Sourcing Rules for Lease of Tangible Personal Property**

<b>Type of Property</b>	<b>Sourcing Rule</b>
<b><i>Tangible Personal Property (Subsection B)</i></b>	
1. Leases requiring periodic payment:	
First payment	<i>Subsection A</i> (same as general retail sales)
Additional payments	Primary property location
2. Leases not requiring periodic payments	<i>Subsection A</i> (same as general retail sales)
<b><i>Motor Vehicles (Subsection C)</i></b>	
1. Leases requiring periodic payments	Primary property location
2. Leases not requiring periodic payments	<i>Subsection A</i> (same as general retail sales)
<b><i>Transportation Vehicles (Subsection D)</i></b>	<i>Subsection A</i> (same as general retail sales)

## **B. Definitions in Appendix C of the SSUTA**

The following language is included in Appendix C, Part I, Administrative Definitions:

### **“Lease or Rental” (Definition 3)**

"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

- A. Lease or rental does not include:
1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
  2. A transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars or one percent of the total required payments; or
  3. Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this *Subsection*, an operator must do more than maintain, inspect, or set-up the tangible personal property.
- B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).
- C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the [state commercial code], or other provisions of federal, state or local law.
- D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the Agreement.

### **“Retail Sale or Sale at Retail” (Definition 5)**

“Retail sale or sale at retail” means any sale, lease or rental for any purpose other than for resale, sublease, or subrent.

## **II. Description of Differences in the Leasing Provisions Between the SSUTA and State Provisions Adopting the SSUTA**

The following discussion describes the differences between the SSUTA provisions and state statutes adopting the SSUTA. The Appendix summary sheets provide more detailed comparisons for each state.

### **Arkansas**

#### *Definition of Lease or Rental*

SB 483 (4/2003) uses different language in defining “lease or rental.” The bill does not include the part of the definition of lease or rental dealing with the preclusion of the sale-leaseback exemption in *Subsection D*.

*Effective Date:* Will go into effect when the combined population threshold is reached, but not earlier than July 1, 2004.

### **Indiana**

#### *Definition of Retail Sale*

HB 1815 (5/2003) does not adopt the SSUTA definition of retail sale.

#### *Definition of Lease or Rental*

HB 1815 does not adopt the full SSUTA definition of lease or rental. The bill does not include the sentence dealing with sale-leaseback exemption in *Subsection D*.

#### *General Sourcing Rules*

HB 1815 adopted the SSUTA leasing provisions.

However, Indiana Bulletin #28 (January 2005), providing taxpayer guidance on sales taxation of sales and leases of motor vehicles, states that dealers leasing to nonresidents must collect sales taxes on any advance lease payments tendered, including the first month’s rent. According to SSUTA (*Sec. 310, Subsec. C.1.*) and the state law (*Ind. Code Sec. 6-2.5-13.1(f)(1)*), all periodic payments should be sourced to the primary property location that could be in another state.

*Effective Date:* There are differences in the effective dates of provisions. General definitions and provisions are effective January 1, 2004, but the grandfather provision at the end of the lease definition applies the new definition to leases entered into after June 30, 2003.

## **Iowa**

### *Definition of Lease or Rental*

HF 683 (6/2003) has not adopted the prospective application and sale-leaseback language in *Subsection D*.

### *General Sourcing Rules*

HF 683 adopts the general sourcing rules but the sourcing rules refer to sales, not retail sales.

*Effective Date:* 7/1/2004

## **Kansas**

### *Definition of Lease or Rental*

HB 2005 (5/2003) does not adopt the full SSUTA definition of lease or rental. The bill does not include the sentence dealing with sale-leaseback exemption in *Subsection D*.

### *General Sourcing Rules*

HB 2005 adopted the SSUTA general sourcing rules effective 7/1/2003. However, SB 147 (5/2004) allows retailers to postpone compliance with the destination-sourcing provisions until January 1, 2005.

*Effective Date:* 1/1/2005

## **Kentucky**

### *Definition of Retail Sale*

The definition of retail sale in HB 293 (3/2003) carries over from current law the qualifying phrase at the end of the definition, “sale ... *in the regular course of business of tangible personal property.*” This language does not appear in the SSUTA definition.

### *Definition of Lease or Rental*

HB 293 added language (Section 20) that exempts motor vehicles subject to the motor vehicle excise tax from the SSUTA provisions. Motor vehicles are also excluded from the lease definition. In addition, HB 293 did not adopt the grandfather clause, *Subsection D* under the lease definition.

### *General Sourcing Rules*

HB 293 did not include Section 310 sourcing language for the sourcing rule for lease or rental of tangible personal property, although it did include the *Subsection A* sourcing for general retail sales. The Kentucky Department of Revenue has not issued a regulation that includes the sourcing rules.

*Effective Date:* In general, 7/1/2004; uncertain on lease sourcing

### **Maryland**

HB 694 (5/2004) “adopts” the SSUTA (November 12, 2002). However, the adoption is contingent upon the U.S. Congress enacting legislation authorizing states to require remote collection of sales and use taxes.

As a result of this contingency, Maryland has not adopted any SSUTA lease definitions or sourcing rules.

*Effective Date:* unknown

### **Michigan**

#### *Definition of Lease or Rental*

HB 5502 (6/2004) did not adopt the SSUTA *Subsections C and parts of D* of the definition of lease or rental.

*Effective Date:* 9/1/2004

### **Minnesota**

#### *Definition of Retail Sale*

The definition of retail sale in SB 1505 (5/2003) does not explicitly exclude those sales made for resale, sublease, or subrent. See Appendix for details.

#### *Definition of Lease or Rental*

SB 1505 has not adopted the prospective application and sale-leaseback language in *Subsection D*.

*Effective Date:* 1/1/2004

## **Nebraska**

### *Definition of Lease or Rental*

LB 1017 (4/2004) does not adopt the full SSUTA definition of lease or rental. The bill does not include the sentence dealing with sale-leaseback exemption in *Subsection D*.

### *General Sourcing Rules*

The sourcing rules in LB 1017 adopt the SSUTA language for sourcing leases and rentals. The sourcing rules for retail sales apply to retail sales, general sales, use of property, and services.

*Effective Date:* 7/1/2004

## **Nevada**

### *Definition of Retail Sale*

AB 514 (5/2003) implements the SSUTA provisions.

Under current law, a lessor has the option of paying the sales tax upfront when the property is purchased or collecting the sales tax on the stream of payments when the property is leased (NAC 372.080). Because AB 514's definition of "retail sale" includes rental or lease, it implies that the lease payments will be taxable even if the lessor has paid the sales tax on the purchase of the equipment. It appears that AB 514 will, in effect, eliminate the option provided by this administrative code section.

### *Definition of Lease or Rental*

AB 514 does not include the SSUTA definition of "lease or rental." Therefore, there is no requirement that the SSUTA definition of lease and rental overrides the current-law definition of lease and rental. In addition, without the definition of lease and rentals from the SSUTA, AB 514 may not explicitly protect the state's provision exempting sale-leasebacks from the sales tax, as described in NAC 372.085.

*Effective Date:* 1/1/2006

## **North Carolina**

### *Definition of Retail Sale*

HB 397 (6/2003) does not adopt the SSUTA definition of retail sale.

*Definition of Lease or Rental*

HB 397 does not adopt the SSUTA *Subsections B, C, and D* provisions of the definition of lease or rental. Motor vehicles and trailers are not subject to the sales and use tax in North Carolina. *Subsection C* of the definition is not currently included in rules and regulations.

*General Sourcing Rules*

HB 397 does not adopt the full language of the SSUTA sourcing rules. *Subsection A* of the sourcing rules apply to all sales, not just retail sales, and *Subsection B* does not contain a separate statement for the treatment of lease or rentals with no periodic payments. The Department of Revenue has not issued a technical bulletin to clarify the sourcing rules.

*Effective Date:* 7/15/2003

**North Dakota**

*Definition of Lease or Rental*

SB 2095 (4/2003) does not adopt the SSUTA *Subsections C and parts of D* of the definition of lease or rental.

*Effective Date:* 12/31/2005

**Ohio**

*Definition of Retail Sale*

HB 95 (6/2003) does not adopt the SSUTA definition of retail sales. See Appendix for details.

*Definition of Lease or Rental*

HB 95 does not adopt the full SSUTA definition of lease or rental. The bill does not include the sentence dealing with sale-leaseback exemption in *Subsection D*.

*General Sourcing Rules*

HB 95 does not adopt the full language of the SSUTA sourcing rules. See Appendix for details.

*Effective Date:* 7/1/2005. SB 26, passed by the Ohio Senate (April 12, 2005) would phase in the sourcing rules for small businesses.

## **Oklahoma**

### *Definition of Retail Sale*

The definition of retail sale in SB 708 (6/2003) does not explicitly exclude those sales made for sublease or subrent. See Appendix for details.

### *Definition of Lease or Rental*

SB 708 does not include the SSUTA definition of lease or rental of tangible personal property. However, the Oklahoma Tax Commission has issued a rule, containing the definition of lease or rental (710-65-1-2 of Chapter 65. Sales and Use Tax).

*Effective Date:* In general, on 11/1/2003

## **South Dakota**

### *Definition of Lease or Rental*

South Dakota excludes motor vehicle excise tax from conforming to the SSUTA provisions. HB 1001 (2/2002) does not adopt the SSUTA *Subsections C and D* of the definition of lease or rental.

### *General Sourcing Rules*

HB 1001 contains general language dealing with the SSUTA sourcing rules. Section 27 of this bill included general language establishing that sales of tangible personal property and services will be sourced to where the goods or services are received and instructing the Department of Revenue to promulgating a rule defining the location of receipts. The SSUTA sourcing rules were incorporated into rule 64:06.

*Effective Date:* 1/1/2004

## **Tennessee**

### *Definition of Lease or Rental*

SB 899 (6/2003) does not adopt the full SSUTA definition of lease or rental. The bill does not include the sentence dealing with sale-leaseback exemption in *Subsection D*.

### *General Sourcing Rules*

SB 899 adopts the provisions of the SSUTA. The provisions were scheduled to go into effect when the combined population threshold was reached, but not earlier than July 1, 2004. In June 2004, SB 3454 delayed the effective date to July 1, 2005.

*Effective Date: 7/1/05*

## **Texas**

### *Definition of Retail Sale*

HB 2425 (6/2003) does not adopt the SSUTA definition of retail sale.

### *Definition of Lease or Rental*

HB 2425 does not explicitly adopt the SSUTA definitions for leases and rentals. The bill only provides the comptroller with the power to adopt rules as necessary to conform the state and local sales taxes to the SSUTA provisions, with the exception of the sourcing rules for local sales taxes. Current law defines sales to include rentals of property.

### *General Sourcing Rules*

HB 2425 does not include the SSUTA sourcing language, although it does make minor changes in the current-law sourcing rules for local taxes. These rules maintain the current law origin concept for sourcing the local sales tax from the sales of tangible personal property. The bill applies the SSUTA, when the act is signed, to the state sales tax under Chapter 51, but retains the existing law sourcing rules for the municipal sales tax in Chapter 321 and the county sales tax in Chapter 323.

For purposes of the two local sales taxes, if leases fall under *Subsection A* of the SSUTA and the property is delivered to the location of the lessee, it is sourced to the location from which the property is shipped or delivered.

Furthermore, HB 2425 provides that the SSUTA will only be adopted if specific state officials and legislators agree it would be “in this state’s best interest” (Section 94). Apparently, no time limit is attached to this provision. However, on October 1, 2003 Texas retailers (with sales tax permits) have to start collecting any applicable use taxes (primarily on services) for local governments even if they are not engaged in business in the local jurisdiction. This is a first step in instituting remote collection responsibility for Texas retailers.

In general, HB 2425 does not follow the majority of states in adopting the specific language for definitions and other features of the SSUTA. Instead, the comptroller is given the power to adopt rules and regulations that are consistent with the SSUTA (Section 95). This language was added as an amendment to Section 142, the section added when Texas adopted the Uniform SUT Administration Act in 2001 (HB 1845).

*Effective Date: Uncertain*

## **Utah**

### *Definition of Lease or Rental*

SB 147 (3/2003) does not adopt the SSUTA *Subsections C and D* of the definition of lease or rental.

*Effective Date:* Ch. 233 (H.B. 107), Laws 2005 postponed Utah's conformity date from 7/1/2005 to July 1, 2006.

## **Vermont**

### *Definition of Lease or Rental*

HB 480 (6/2003) does not adopt the SSUTA *Subsections C and D* of the definition of lease or rental.

### *General Sourcing Rules*

HB 480 did not include the SSUTA sourcing rules. There is no sourcing rule for lease or rental of tangible personal property in the bill.

*Effective Date:* In general, beginning of the second quarter after membership but not earlier than January 1, 2005.

## **Washington**

### *Definition of Retail Sale*

Retail sale includes certain services in its definition.

### *Definition of Lease or Rental*

HB 1863 (1/2003) does not adopt the SSUTA *Subsection D* of the definition of lease or rental but does adopt all other *Subsections* of the definition. The Washington State Department of Revenue's rule draft for implementing the SSUTA indicates that the new definition of lease or rental also applies to the B&O retail tax. However, in the case of the B&O tax, subleasing or subrenting is subject to the wholesale B&O tax, while the SSUTA definition excludes these transactions from the sales tax.

### *General Sourcing Rules*

HB 1863 does not adopt the SSUTA uniform sourcing rules. SHB 2500 also sets up a "mitigation account" that will be used to compensate local units of government for redistributions of local sales taxes caused by changes in the state's sourcing rules.

*Effective Date:* Uncertain

## **West Virginia**

### *Definition of Retail Sale*

The definition of retail sale in HB 3014 (3/2003) also includes “any sale of a service other than a service purchased for resale.” This language does not appear in the SSUTA definition.

### *Definition of Lease or Rental*

HB 3014 does not adopt the SSUTA *Subsection D* of the definition of lease or rental.

*Effective Date:* 1/1/2004

## **Wyoming**

### *Definition of Lease or Rental*

HB 259 (2001) does not include the definition of lease or rental.

### *General Sourcing Rules*

HB 259 does not include the SSUTA sourcing rules for lease and rentals. In 2001, the legislature adopted the Uniform Sales and Use Tax Administration Act, including the general language giving the Department of Revenue authority to implement provisions of the agreement (HB 259). Wyoming has not adopted the specific provisions added by the SSUTA.

*Effective Date:* In general, on July 1, 2002

### III. Summary of State Compliance with Leasing Provisions of the SSUTA

The following table summarizes the degree of compliance with the SSUTA leasing and sourcing provisions for the 22 states that have adopted a version of the SSUTA. The state-by-state analysis in Part II and the summary information in the Appendix were used to determine the status for each state.

Based on criteria developed by the Equipment Leasing Association, the states have been assigned to the “in compliance” or “not in compliance” categories in the table. States listed as being in compliance have adopted, by statute or regulation, each of the Section 310 sourcing provisions and each of the “lease or rental” definitions in Appendix C of the SSUTA, as described in Section I.

A significant number of states are identified as not being in compliance because of the absence of or only partial compliance with Subsections C and D of the lease or rental definition. In terms of Subsection D, to be in compliance under the ELA criteria a state must have adopted the first sentence establishing prospective application of the definition. If a state has not adopted the sales-leaseback language in the second sentence of Subsection D, it is still considered to have complied with Subsection D if the prospective application sentence has been adopted. The effective dates of the state bills have not been considered in determining compliance.

#### Summary of State Compliance with the Leasing Provisions of the Streamlined Sales and Use Tax Agreement

In Compliance	Not In Compliance
Arkansas	Indiana
Kansas	Iowa
Tennessee	Kentucky
	Maryland
	Michigan
	Minnesota
	Nebraska
	Nevada
	North Carolina
	North Dakota
	Ohio
	Oklahoma
	South Dakota
	Texas
	Utah
	Vermont
	Washington
	West Virginia
	Wyoming

## **Appendix**

### **State-by-State Checklist of SSUTA Leasing Provisions**



## Arkansas

SB 483; Enacted (4/11/2003)

Effective when the combined population threshold is reached but not before 7/1/2004

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>26-52-521</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>26-52-103</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"This definition will be applied only prospectively from the effective date of this subdivision and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption nor exclusions."
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>26-52-103</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Indiana  
 HB 1815; Enacted (5/8/2003)  
 Effective 1/1/2004

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>IC 6-2.5-13</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.		X	Bulletin #28 states that nonresident advanced periodic payments are sourced to IN, not primary property location
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>IC 6-2.5-1-21</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"This section applies only to leases or rentals entered into after June 30, 2003, and has no retroactive effect on leases or rentals entered into before July 1, 2003."
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	

Iowa  
**HF 683; Signed by the Governor(6/19/03)**  
**Effective 7/1/2004**

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 423.15</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	Sale, instead of retail sale (sale: any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration)
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>Section 423.1(22)</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Section 423.1(45)</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

**Kansas**

**HB 2005; Enacted - Final (5/19/2003)**

**SB 147; Enacted - Final (5/20/2004)**

**Effective 1/1/2005**

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>79-3651 New Sec. 16</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>79-3602</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"This definition will be applied only prospectively from the effective date of this act and will have no retroactive impact on existing leases or rentals."
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>79-3602 (JJ)</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

**Kentucky**  
**HB 293; Enacted (3/18/2003)**  
**Effective 7/1/2004**

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>KRS 139</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:		X	
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:		X	
1) if recurring periodic payments, then sourced to primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>KRS 139.120</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).		X	Missing "motor vehicles".
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>KRS 139.100</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	"Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent in the regular course of business of tangible personal property.

Maryland  
 HB 694; Enacted (5/26/2004)

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	
1) if received at business location of seller, then sourced to that location.		X	
2) if not received at business location of seller, then sourced to location of receipt.		X	
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.		X	
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.		X	
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which tpp was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	
B. Lease or rental of tpp, other than those in C or D, shall be sourced as follows:		X	
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:		X	
1) if recurring periodic payments, then sourced to primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.		X	
A. Lease or rental does not include:		X	
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.		X	
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.		X	
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.		X	
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).		X	
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	

Michigan  
 HB 5502-5504; Enacted (6/28/2004)  
 Effective 9/1/2004

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 19</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	"For sourcing a sale at retail for taxation under this act"
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	Only applies to lease or rental of transportation equipment.
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>Section 1a</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"This definition applies only to leases and rentals entered into after the effective date of the amendatory act that added this section and has no retroactive impact on leases and rentals that existed on that date."
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Section 1</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Minnesota  
 SB 1505; Enacted (5/25/2003)  
 Effective 1/1/2004

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 297A.668</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>Section 297A.61</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.			X
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Section 297A.61</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.			X
			"sales at retail" include taxable services and the provision of taxable services.

Nebraska

LB 282; Enacted - Final (5/6/2003)

LB 1017; Enacted - Final (4/15/2004)

Effective 7/1/2004

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>77-2703.01</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	Sourcing applies to sale or use of property or the provision of services.
1) if received at business location of seller, then sourced to that location.		X	Includes services.
2) if not received at business location of seller, then sourced to location of receipt.		X	Includes services.
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.		X	Includes services.
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.		X	Includes services.
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	Includes services.
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>77-2702.08</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"This definition shall be applied only prospectively from the operative date of this section and shall have no retroactive impact on existing leases or rentals. "
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>77-2702.11</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Nevada  
 AB 514; Enrolled (5/29/2003)  
 Effective 1/1/2006

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 15</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.		X	
A. Lease or rental does not include:		X	
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.		X	
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.		X	
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.		X	
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).		X	
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		Adopted TRAC
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Section 7</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

North Carolina  
 HB 397; Enacted (6/30/2003)  
 Effective 7/15/2003

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>GS 105-164.4B</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	"sale of a product, ...regardless of the nature of the product."
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>GS 105-164.3</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.		X	"Lease or rental - a transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration."
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		Adopted TRAC
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	

North Dakota  
 SB 2095; Enacted (4/8/2003)  
 Effective 12/31/2005

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>57-39.4-11</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which tpp was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of tpp, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>57-39.4-12</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		Adopted TRAC
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals."
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>57-39.4-12</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Ohio  
**HB 95; Enrolled (6/26/2003)**  
**HB 204; Enacted (8/5/2004)**  
**Effective 7/1/2005**

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Sec. 5739.033. (A)</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	Except as otherwise provided in this section, division (C) of section 5739.031, and section 5739.034 of the Revised Code, the situs of all sales is the vendor's place of business (depends on the vendor).
1) if received at business location of seller, then sourced to that location.		X	(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business.
2) if not received at business location of seller, then sourced to location of receipt.		X	(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement was made or the purchase order was received.
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.		X	(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), (d), (n), or (o), (r), (s), or (t) of section 5739.01 or makes a sale specified in division (B)(8) of section 5739.01 of the Revised Code, the situs of the sale is the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received.
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.		X	
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:		X	Sec. 5739.02.A.(2) Sec. 5741.02 (2) An excise tax is applied to business lease or rental of motor vehicles (carrying < 1 ton), watercraft, outboard motor, aircraft, or TPP (carrying > 1 ton) with a fixed term of > 30 days or an indefinite term with a minimum period of > 30 days.
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:		X	
1) if recurring periodic payments, then sourced to primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	

## Ohio (continued)

HB 95; Enrolled (6/26/2003)

HB 204; Enacted (8/5/2004)

Effective 7/1/2005

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>Sec. 5739.01 (UU)</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"Lease" and "rental" shall not apply to leases or rentals that exist before the effective date of this amendment.
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Sec. 4729.01 (L); Sec. 5739.01 (E)</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale. (E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person

Oklahoma  
 SB 708; Enacted (6/3/2003)  
 Effective 11/1/2003

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 1354.27 of Title 68</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>68 OS 2001, Section 1401</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	"Purchase at retail" means and includes all purchases except purchases made for the purpose of resale.

South Dakota  
 HB 1001; Engrossed (2/23/2002)  
 SB 76; Enacted (3/6/2003)  
 Effective 1/1/2004

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Chapter 10-46</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>Chapter 10-45 and 10-46</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		Adopted TRAC
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Chapter 10-45</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Tennessee  
 SB 899: Enacted - Final (6/16/2003)  
 SB 3454: Enacted - Final (6/15/2004)  
 Effective 7/1/2005

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>67-6-902; not effective until 7/1/05</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>67-6-102(a), subsection (16)</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	"This definition shall be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals."
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>67-6-102(a), subsection (25)</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Texas  
**HB 2425; Enacted - Line Item Vetoed (6/20/2003)**

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 321.203; 323.203</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	(b) If a retailer has only one place of business in this state, all of the retailer's retail sales of tangible personal property are consummated at that place of business except as provided by Subsection (e). (c) If a retailer has more than one place of business in this state, a sale of tangible personal property by the retailer is consummated at the retailer's place of business from which the retailer ships or delivers the property, if the retailer ships or delivers the property to a point designated by the purchaser or lessee; or where the purchaser or lessee takes possession of and removes the property, if the purchaser or lessee takes possession of and removes the property from a place of business of the retailer. (d) If neither the possession of TPP is taken at nor shipment or delivery of the property is made from the retailer's place of business in this state, the sale is consummated at the retailer's place of business in this state where the order is received; or if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates. (e) A sale of tangible personal property is consummated at the location in this state to which the property is shipped or delivered or at which possession is taken by the customer if transfer of possession of the property occurs at, or shipment or delivery of the property originates from, a location in this state other than a place of business of the retailer and if the retailer is an itinerant vendor who has no place of business, the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside this state, or the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.
1) if received at business location of seller, then sourced to that location.		X	
2) if not received at business location of seller, then sourced to location of receipt.		X	
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.		X	
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.		X	
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:		X	
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:		X	
1) if recurring periodic payments, then sourced to primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	

Texas (continued)

HB 2425; Enacted - Line Item Vetoed (6/20/2003)

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.		X	
A. Lease or rental does not include:		X	
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.		X	
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.		X	
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.		X	
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		Adopted TRAC
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	

Utah  
 SB 147; Enacted (3/24/2003)  
 HB 273; Enacted (3/22/2004), HB 107 (Ch. 233, Laws of 2005)  
 Effective 7/1/2006

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 59-12-207</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>Section 59-12-102</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Section 59-12-102</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Vermont

HB 480; Enacted - Final (6/18/2003)

HB 784; Enacted - Final (6/7/2004)

Effective 1/1/2005

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	
1) if received at business location of seller, then sourced to that location.		X	
2) if not received at business location of seller, then sourced to location of receipt.		X	
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.		X	
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.		X	
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:		X	
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:		X	
1) if recurring periodic payments, then sourced to primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>32 V.S.A. Section 9701(33)</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>32 V.S.A. Section 9701(5)</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		

Washington

HB 1863; Enacted (1/12/2003)

SB 6515; Enacted (3/26/2004)

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	prepaid calling services only.
1) if received at business location of seller, then sourced to that location.		X	
2) if not received at business location of seller, then sourced to location of receipt.		X	
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.		X	
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.		X	
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:		X	
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:		X	
1) if recurring periodic payments, then sourced to primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>RCW 82.04.050 and 2002 c 178 s 1; 82.04.040 and 2003 c 168 s 103</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.	X		
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	

Washington (continued)  
 HB 1863; Enacted (1/12/2003)  
 SB 6515; Enacted (3/26/2004)

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>RCW 82.04.050 and 2002 c 178 s 1; 82.04.050 and 2003 c 168 s 104</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	"Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who presents a resale certificate under RCW 82.04.470.... (includes services)

West Virginia

HB 3014; Enacted (3/14/2003)

HB 4349; Enacted (3/4/2004)

Effective 1/1/2004

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			<b>Section 11-15B-15</b>
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:	X		
1) if received at business location of seller, then sourced to that location.	X		
2) if not received at business location of seller, then sourced to location of receipt.	X		
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.	X		
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.	X		
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.	X		
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:	X		
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:	X		
1) if recurring periodic payments, then sourced to primary property location.	X		
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).	X		
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.	X		
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)	X		
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			<b>Section 11-15B-2 (18)</b>
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.		X	Additional: "Lease" includes rental, hire and license.
A. Lease or rental does not include:	X		
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.	X		
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.	X		
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.	X		
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		Adopted TRAC
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.	X		
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			<b>Section 11-15B-2 (34)</b>
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.		X	"Retail sale" or "sale at retail" means any sale or lease for any purpose other than for resale as tangible personal property, sublease, or subrent, and any sale of a service other than a service purchased for resale.

Wyoming  
 HB 259; Engrossed (2001)  
 Effective 7/1/2002

Description	Compliance Status		Notes
	Adopted	Not Adopted	
<b>Sec. 310: General Sourcing Rules</b>			
A. Retail sales of product, excluding lease or rental, shall be sourced as follows:		X	
1) if received at business location of seller, then sourced to that location.		X	
2) if not received at business location of seller, then sourced to location of receipt.		X	
3) if subsections 1 & 2 do not apply, then sourced to address of purchaser in business records of seller that are maintained in ordinary course of seller's business.		X	
4) if subsections 1, 2 & 3 do not apply, then sourced to address of purchaser obtained during consummation of sale, including address of purchaser's payment instrument, if no other address is available.		X	
5) if subsections 1, 2, 3 & 4 do not apply, then sourced to location from which TPP was shipped, from which digital good or computer software delivered electronically was first available for transmission by seller or from which service was provided.		X	
B. Lease or rental of TPP, other than those in C or D, shall be sourced as follows:		X	
1) if recurring periodic payments, then the first payment is sourced the same as retail sale (Sec. A). Subsequent payments shall be sourced to the primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
C. Lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment shall be sourced as follows:		X	
1) if recurring periodic payments, then sourced to primary property location.		X	
2) if no recurring periodic payments, then sourced in accordance with the rules of retail sale (Sec. A).		X	
3) does not affect tax based upon a lump sum or accelerated basis or property acquired for lease.		X	
D. Retail sale, including lease or rental, of transportation equipment shall be sourced in accordance with rules for retail sale (Sec. A)		X	
<b>Appendix C, I.3: "Lease or Rental" Definition</b>			
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.		X	
A. Lease or rental does not include:		X	
1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.		X	
2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments.		X	
3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.		X	
B. Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).	X		Adopted TRAC
C. This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under GAAP, IRC, SCC, or other provisions of federal, state, or local law.		X	
D. This definition will be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals. This definition shall neither impact any existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from adopting a sale-leaseback exemption or exclusion after the effective date of the agreement.		X	
<b>Appendix C, I.5: "Retail sale or Sale at retail" Definition</b>			
"Retail sale or Sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.	X		39-15-101