

Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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Sourcing Digital Products and Digital Codes Sales

Overview

This Excise Tax Advisory (ETA) addresses how the sale of digital products and codes are sourced.

Note: [RCW 82.32.730](#) governs the sourcing of sales of digital products and digital codes, requiring these sales to be sourced to the location of receipt.

Definition: “Digital Product”

Definition

A “*digital product*” is a digital good or a digital automated service.

Additional Definition Information

Click [here](#)¹ for a more complete description of digital goods and digital automated services.

Note:

The sale of digital goods and digital automated services are retail sales under [RCW 82.04.050](#), regardless of whether the purchaser’s right of use is permanent or less than permanent.

Definition: “Digital Code”

A “**digital code**” is a code that gives a purchaser the right to obtain one or more digital products when all of the digital products to be obtained through the use of the code have the same sales and use tax treatment.

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¹ <http://dor.wa.gov/Content/GetAFormOrPublication/PublicationBySubject/TaxTopics/DigitalProductsQA.aspx>.

All ETAs were cancelled on February 2, 2009 and those which had a continued use were rewritten and reissued using a new numbering system. The new ETAs are numbered using the following format 3nnn.yyyy. The Department of Revenue issued ETA 3001.2009 which includes a cross reference table showing the old and new ETA numbers for those ETAs that were rewritten.

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Sourcing Digital Products and Digital Codes Sales, Continued

**Definition:
 “Sourced”**

The terms “*source*,” “*sourced*,” or “*sourcing*” refer to the location (the state, local taxing district, jurisdiction, or authority) where a sale of a digital product or a digital code is deemed to have occurred for purposes of a seller’s obligation to collect Washington’s retail sales tax.

**Ways Digital
 Products are
 Received**

The table shows many of the ways Digital Goods and Digital Codes and Digital Automated Services are “Received.” However, receipt occurs in both instances when the customer makes first use by accessing the Digital Good, Digital Code, or Digital Automated Service and both are sourced based on where the customer is located.

For . . .	“Received” and “Receipt” is defined as the location where the customer . . .
Digital Goods and Codes	<ul style="list-style-type: none"> • takes possession, • views, • downloads, • stores, • opens, • manipulates, • uses, • enjoys, or • makes first use of (accesses) a digital good or code, whichever comes first.
Digital Automated Services	<ul style="list-style-type: none"> • uses, • enjoys, • otherwise receives the benefit of the service, or • makes first use of (accesses) a digital automated service.

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Summary of hierarchy of sourcing steps for determining the location of receipt

The table lists the step number hierarchy, location to which a transaction is sourced, and criteria summary for determining the location of receipt as provided in [RCW 82.32.730](#). These steps are to assist sellers of digital products to determine where the customer is located.

Note: The Department of Revenue (Department) anticipates that sellers will source the majority of their sales to the buyer’s address either maintained in the seller’s business records or obtained at the time of sale (Sourcing Steps (3) and (4)) since frequently sellers will not know the physical location where the buyer receives the digital good, digital automated service, or digital code.

Step Number	Source To	Step Summary
1	Buyer purchases at seller’s brick and mortar place of business	If the buyer receives the digital product or digital code at the seller’s brick and mortar place of business (traditional “over the counter” transaction), then source the sale to the seller’s place of business.
2	Buyer’s location other than the seller’s place of business	If the digital product or digital code is received at a location other than the seller’s place of business, then source the sale to the address where the buyer receives the item, if known .
3	Buyer’s address maintained in the seller’s books and records	If the address where the buyer receives the digital product or digital code is not known, then source the sale to the buyer’s address available in the seller’s business records maintained in the ordinary course of business if use of this address does not constitute bad faith.
4	Buyer’s address obtained at the time of sale	If the buyer’s address is not available in the seller’s business records, then source the sale to the buyer’s address obtained at the time of sale if the use of this address does not constitute bad faith.
5	Default origin sourcing	If Steps 1 through 4 cannot be applied, then source the sale to the address where the digital product or digital code is first made available by the seller for transfer or viewing, or in the case of a digital automated service the location from which the service was provided.

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Guidelines for using the hierarchy of sourcing steps and examples in this ETA

The remainder of this ETA addresses the application of the sourcing steps hierarchy above and provides related examples. These examples identify certain facts and then state a conclusion. The following guidelines should be kept in mind when using the examples in this ETA:

- The examples should be used only as a general guide;
 - The tax results of other situations must be determined separately after a review of all of the facts and circumstances;
 - All examples presume the seller is responsible for collecting and/or remitting tax to Washington; and
 - All examples presume that no exception or exemption from tax applies.
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Example: Sourcing Step 1. Seller's place of business

Antoinette purchases several MP3 songs from a jukebox in an Olympia, WA restaurant. Some of the songs are on the jukebox's hard drive and others are on a server located in Quincy, WA. The MP3's are digital products and the sale is subject to retail sales tax. The sale is sourced to the restaurant's Olympia address where Antoinette accessed the MP3 files. The restaurant must collect State and local sales tax applicable to Olympia, WA.

Explanation: This example meets Sourcing Step 1 because Antoinette accessed the song files at the restaurant.

Example: Sourcing Step 2. Location other than the seller's place of business

Company Y sells and electronically transfers two digital tutorials to Jordan.

- The first tutorial is downloaded to a computer located in Oregon.
- The second tutorial is streamed to a computer in Spokane, WA, is not downloaded, and remains on Company Y's server where Jordan can access it for a predetermined length of time using a digital code.

The tutorials are digital products and the sale is subject to retail sales tax. Company Y knows where Jordan will access each file. Because the first file is accessed in Oregon, Washington state or local sales tax is not due. However, the second tutorial must be sourced to Spokane, WA because Jordan accessed it from there. Company Y must collect State and local sale tax applicable to Spokane, WA.

Explanation: This example meets Sourcing Step 2 because Jordan accessed the second file in Washington but not at the seller's place of business. The Department anticipates that this sourcing step will infrequently be used since sellers will generally not know the physical location where the buyer receives the digital product or digital code.

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**Example:
Sourcing Step 3.
Buyer's address
maintained in
the seller's books
and records**

Drew buys a digital photo from Alyson's Photo Extravaganza, who is in the business of selling photos. Alyson sends the photo to Drew's personal email address, but does not know the physical location where Drew will receive, or access, the photo. For business purposes, Alyson already has Drew's address on file in her books and records. The sale, which is a sale of a digital product, must be sourced to Drew's address available in Alyson's business records. Alyson must collect Washington State and local taxes if Drew's recorded address is for a location in Washington.

Explanation: This example meets Sourcing Step 3 because:

- Drew did not access or receive the photo at Alyson's place of business,
 - Alyson did not know where Drew receives or accesses the photo, and
 - Alyson already had Drew's address on file in her books and records.
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**Example:
Sourcing Step 4.
Buyer's address
obtained at the
time of sale**

Example A

Megacorporation sells ringtones through its website and prompts Norman to enter his credit card and billing address when making his purchase. This billing address is the only address that Megacorporation has for Norman. The ringtones are digital products. Megacorporation must source the sale to Norman's address associated with the credit card payment. Megacorporation must collect the Washington State and local taxes if Norman's billing address is in Washington.

Explanation: This example meets Sourcing Step 4 because, while Megacorporation did not already have Norman's address on file, Megacorporation did obtain Norman address at the time of sale when Norman entered his credit card information.

Example B

Megacorporation sells a digital audio book to Tim. The digital audio book is a digital product. In connection with the sale, neither Tim nor the payment method used discloses any location other than Tim's IP address. Megacorporation may source the sale to the physical location associated with Tim's IP address.

Explanation: This example meets Sourcing Step 4 because Megacorporation did not already have Tim's physical address in their business records and the IP address is acceptable location information obtained at the time of sale.

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Tools for local sales tax sourcing

The Department assigns location codes to identify the specific taxing locations that receive local taxes. These location codes are used on tax returns to accurately identify the correct taxing location and local tax rate. Click [here](#)² for more information concerning location codes and other tools to help you determine local sales tax rates.

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² <http://dor.wa.gov/content/FindTaxesAndRates/SalesAndUseTaxRates/>