

Comments in Support of Changes to Bruce's

Draft of Massachusetts' Rules

I have gone through Bruce's redraft and have tried to identify areas where I at least did not follow the organizational structure or thoughts in the Mass draft.

I have taking the liberty of removing almost all of the examples and includes not because I didn't think they were valuable but because I was trying to make things as simple as possible. Much of that material should be reinserted if there is any desire to use what I have done.

First, the Mass draft does not have a general throwout in the case of not being taxable. I think they used in two places and one of those I thought nexus would clearly exist. I put a throwout statement in the initial section. Also in the initial section in lieu of the Mass reg of citing to specific industries I include a general rule incorporating special rules adopted pursuant to section 18 and state statutes. There is a need in particular to look at the section 18 rules to make sure they follow market sourcing principles to make sure we want the special rules to override market sourcing.

Second, I still do not fully understand the Mass organization of their section c. As I looked a things it seemed to me that two forms of delivery, physical and electronic, gave rise to a need for different rules so I reorganized on that basis.

Third, I thought the professional services section rules should be limited to only those which weren't covered by physical delivery. I think this may deal with one of my areas of concerns which was professional services relating to state specific controversies such as state specific tax issues or litigation in a state. Not sure it does this completely.

I deleted most of the titles where rules were characterized as rules of approximation. I just didn't think that made the sound mandatory though I recognize they are substitutes for directly determining the market.

I hope what I have done will be useful to some of you. If not then it can be disregarded. But at least it shows my thought process. I am sure if it is useful it can be improved upon and some of certainly reflects my lack of understanding of what Mass has done and my non-recognition of the fact that solved the problems I see. As with anything like this there is still a need to clean up the outline structure and internal reference if they are even necessary.

I tried to insert comments showing where the Mass language comes from which my aid in the review. I have not done a track changes showing deletions because of my desire to keep it simple.

Ben