

b. In-Person Services.

i. In General. Except as otherwise provided in this subsection 4.b, in-person services are services that are physically provided in person by the taxpayer, where the customer or the customer's real or tangible property upon which the services are performed is in the same location as the service provider at the time the services are performed. This rule includes situations where the services are provided on behalf of the taxpayer by a third-party contractor. Examples of in-person services include, without limitation, warranty and repair services; cleaning services; plumbing services; carpentry; construction contractor services; pest control; landscape services; medical and dental services, including medical testing and x-rays and mental health care and treatment; child care; hair cutting and salon services; live entertainment and athletic performances; and in-person training or lessons. In-person services include services within the description above that are performed at (1) a location that is owned or operated by the service provider or (2) a location of the customer, including the location of the customer's real or tangible personal property. Various professional services, including legal, accounting, financial and consulting services, and other such services as described in 4.d, although they may involve some amount of in-person contact, are not treated as in-person services within the meaning of this section, 4.b.

ii. Assignment of Sales. Except as otherwise provided in this subsection 4.b, where the service provided by the taxpayer is an in-person service, the delivery of the service is at the location where the service is received. Therefore, the sale is in this state if and to the extent the customer receives the in-person service in this state. In assigning its sales of in-person services, a taxpayer shall first attempt to determine the location where a service is received, as follows:

(A) Where the service is performed with respect to the body of an individual customer in this state (e.g. hair cutting or x-ray services) or in the physical presence of the customer in this state (e.g. live entertainment or athletic performances), the service is received in this state.

(B) Where the service is performed with respect to the customer's real estate in this state, ~~or where the service is performed with respect to the customer's tangible personal property at the customer's residence or in the customer's possession in this state, the service is received in this state.~~

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(C) Where the service is performed with respect to the customer's tangible personal property:

~~(1) Where the service is performed with respect to the customer's tangible personal property at the customer's residence or in the customer's possession in this state, the service is received in this state.~~

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(2) Where (C)(1) does not apply and ~~and~~ the tangible personal property is to be shipped or delivered to the customer, whether the service is performed in this state or outside this state, the service is received in this state if such property is shipped or delivered to the customer in this state.

(3) In any instance in which the state or states where a service is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of receipt from which it can reasonably approximate the state or states where the service is received, the taxpayer shall reasonably approximate such state or states. In any instance where the state to which the sale is to be assigned can be determined or reasonably approximated, but the taxpayer is not taxable in such state, the sale that would otherwise be assigned to such state shall be excluded from the numerator and denominator of the taxpayer's sales factor.