

iv. Examples. Assume in each of these examples that the taxpayer that provides the service is taxable in Massachusetts and is to apportion its income pursuant to M.G.L. c. 63, § 38. Also, assume, where relevant, unless otherwise stated, that the taxpayer is taxable in each state other than Massachusetts to which its sale or sales would be assigned, so that there is no requirement in such examples that such sale or sales be eliminated from the numerator and denominator of the taxpayer's sales factor. See 830 CMR 63.38.1(9)(d)1.f.ii. Note that for purposes of the examples it is irrelevant whether the services are performed by an employee of the taxpayer or by an independent contractor acting on the taxpayer's behalf.

Example 1. Salon Corp has retail locations in Massachusetts and in other states where it provides hair cutting services to individual and business customers, the latter of whom are paid for through the means of a company account. The sales of services provided at Salon Corp's Massachusetts locations are in Massachusetts. The sales of services provided at Salon Corp's locations outside Massachusetts, even when provided to Massachusetts residents, are not Massachusetts sales.

[This example illustrates the concept that in-person services performed with respect to the body of a customer are sourced to the state where the service is physically performed (and that the residence of the customer is irrelevant). It also points out that for in-person services there is no distinction between situations where the customer is an individual or a business. See 4.b.ii(A)]

Example 2. Landscape Corp provides landscaping and gardening services in Massachusetts and in neighboring states. Landscape Corp provides landscaping services at the Massachusetts vacation home of an individual who is a resident of another state and who is located outside Massachusetts at the time the services are performed. The sale of services provided at the Massachusetts location is in Massachusetts.

[This example illustrates the concept that in-person services performed with respect to the customer's real estate or personal property located at the customer's residence are sourced to the state where that real estate or residence is located. See 4.b.ii(B)]

Example 3. Same facts as in Example 2, except that Landscape Corp provides the landscaping services to Retail Corp, a corporation with retail locations in several states, and the services are with respect to such locations of Retail Corp that are in Massachusetts and in other states. The sale of services provided to Retail Corp is in Massachusetts to the extent the services are provided in Massachusetts.

[This example illustrates the same real estate concept as Example 2, but it also illustrates that where you are providing a particular service at several different real estate or residence locations (all for the same customer) that you need to trace and assign the portion of the receipts attributable to the service performed at each location (to the extent that they were performed in more than one state). This tracing receipts to the services actually provided at each location isn't something explicitly articulated in the reg, but logically follows from the provisions of 4.b.ii(B)]

Example 4. Camera Corp provides camera repair services at a Massachusetts retail location to walk-in individual and business customers. In some cases, Camera Corp actually repairs a

camera that is brought to its Massachusetts location at a facility that is in another state. In such cases, the repaired camera is then returned to the customer at Camera Corp's Massachusetts location. The sale of such services is in Massachusetts.

[This example illustrates the concept that services performed with respect to a customer's tangible personal property are sourced to the state where the tangible personal property is delivered to the customer after the service has been performed, even if the service was performed at a location outside that state. See 4.b.ii(C). (This example also highlights that, for in-person services, there is no distinction between situations where the customer is an individual or a business.)]

Example 5. Same facts as in Example 4, except that a customer located in Massachusetts mails the camera directly to the out-of-state facility owned by Camera Corp to be fixed, and receives the repaired camera back in Massachusetts by mail. The sale of the service is in Massachusetts.

[This example illustrates the same "service with respect to a customer's tangible personal property" concept as example 4; except that it shows that even if the service provider did not have any in-person contact with the customer, you still source the sale to the state where the tangible personal property is delivered to the customer after the service has been performed. See 4.b.ii(C)]

Example 6. Teaching Corp provides seminars in Massachusetts to individual and business customers. The seminars and the materials used in connection with the seminars are prepared outside the state, the teachers who teach the seminars include teachers that are resident outside the state, and the students who attend the seminars include students that are resident outside the state. Because the seminars are taught in Massachusetts the sales of the services are in Massachusetts.

[This example illustrates the concept of sourcing a sale to the state where a service was provided in the physical presence of the customer. See 4.b.ii(A)]

Example 7. Bus Corp sells bus tickets to individual and business customers at bus depots located in Massachusetts and in other states, and also through phone and Internet sales. The bus tickets are for travel to locations in Massachusetts and to locations in other states. During the taxable year, Bus Corp sells 150,000 bus tickets. Each ticket has a departure location and an arrival location, for a total of 300,000 departure and arrival locations. Of these bus tickets, 25,000 have a departure location in Massachusetts and 20,000 have an arrival location in Massachusetts. The sale of such transportation services shall be assigned by multiplying Bus Corp's total revenues from such services by the percentage of Bus Corp's total departures and arrivals that take place in Massachusetts relative to Bus Corp's total number of departures and arrivals. Therefore, Bus Corp must determine the amount of its ticket sales that are to be assigned to Massachusetts by multiplying its total such sales by a fraction equal to 45,000 divided by 300,000, or .15. For purposes of the analysis it is irrelevant where and how the bus tickets are sold or whether the customer is an individual or business customer.

[This example illustrates the sourcing for transportation services based on the states of departure and arrival. See 4.b.iii(C).]