



Whitepaper Section on Sourcing August 20, 2026

1. Scope

The Digital Products Work Group was formed to draft a Whitepaper on the issues states should consider when including digital products¹ in their sales tax base.² An informal survey among work group members was conducted with some interest shown toward sourcing issues.³ At the June 5, 2025 meeting, the work group began studying sourcing issues in earnest.⁴ At that meeting, three items were identified for study by the work group chair: (1) issues specific to sourcing digital products; (2) sourcing based on multiple points of use (MPU); and (3) existing and proposed federal standards.

Sourcing digital products may pose unique challenges compared to sourcing traditional products for multiple reasons, including that the destination of a digital product is less likely to be known by the seller at the time of sale and that digital products are more susceptible to being used in multiple locations simultaneously.

This section of the Whitepaper (1) explores these obstacles, among others, (2) surveys different responses to them, and (3) presents a set of takeaways.

2. Sourcing Issues with and Solutions for Digital Products

State sales taxes are imposed by both states and local governments (with the local tax generally tied to the state tax base). So, the sourcing of transactions subject to sales tax involves not only determining what state will tax the sale but the specific location and local rate that will apply.

¹ For purposes of this MTC uniformity project, the term “digital product” means both goods and services.

² Visit the MTC project page at <https://www.mtc.gov/uniformity/sales-tax-on-digital-products/>.

³ The results of this survey were briefly discussed at the March, 7, 2024 work group meeting, notes available here: <https://www.mtc.gov/wp-content/uploads/2024/04/Digital-Work-Group-Notes-03-7-24.pdf>.

⁴ Notes from that work group meeting are available here: <https://www.mtc.gov/wp-content/uploads/2025/07/Digital-Work-Group-Notes-6-5-25.pdf>.

The seller's role in collecting sales tax at the time of the transaction is critical to its administration.⁵ States generally require sellers to charge and collect the correct sales tax from the buyer. This depends on sourcing and thus sourcing must be determined at the time of the sale. Therefore, sales tax sourcing rules must consider what the seller knows at the time of the transaction.

Today, most states' rules for sales tax sourcing are destination-based, that is, sales are sourced to the location where whatever was sold is received by the purchaser.⁶ The rules also generally source sales to a single location. When dealing with tangible personal property (TPP), this is intuitive enough. When dealing with digital products, it often is not.

Due to the nature of digital products, the location where a digital product is received may not be obvious. Additionally, again due to their nature, digital products are less neatly sourced to a single location.⁷ Below are some existing solutions to these issues.

A. Streamlined

The Streamlined Sales and Use Tax Governing Board (Streamlined) has adopted sales and use tax policies (the Streamlined Agreement) to which its member states' laws must generally conform and which include rules for sourcing sales. Since Streamlined has 24 member states, the sales and use tax policies adopted by Streamlined represent the majority position for states with a general sales tax.

i. Destination Sourcing

Streamlined generally uses destination sourcing.⁸ This is true whether the transaction involves TPP, a digital good, or a service.⁹ However, the exact wording differs based on the nature of the product. Sales of TPP are sourced to where the purchaser takes possession. Sales of services are sourced to where the purchaser makes first use of the service. Sales of digital goods are sourced to where the purchaser takes possession or makes first use.¹⁰

The Streamlined Agreement provides a cascading hierarchy of sourcing rules:¹¹

- If a product is received at a seller's business location, the sale is sourced to that business location.

⁵ Helen Hecht, *Sourcing of Digital Goods and Services for Sales Tax – The Evolution of a Federal Legislative Proposal*, at 5, prepared for the National Tax Association Annual Conference on Taxation, 2014. (link [here](#)).

⁶ HELLERSTEIN, HELLERSTEIN & APPLEBY, *STATE TAXATION*, § 18.02[1] (3rd ed. 2026).

⁷ See, Martin I. Eisenstein and Michael E. Carey, *Where's Waldo: Sourcing IT and Cloud Services*, 81 *State Tax Notes* 429, 430 (2016) (discussing the issues with sourcing IT and cloud products).

⁸ See [Streamlined Agreement section 310\(A\) and 311](#).

⁹ Streamlined Agreement § 309(B).

¹⁰ Streamlined Agreement § 311(C).

¹¹ Streamlined Agreement § 310(A)(1)-(5).

- If the product is not received at a seller’s business location, then the sale is sourced to the location of receipt by the purchaser.
- If neither of the above apply, the sale is sourced to the location indicated by the purchaser’s address, taken from the seller’s business records.
- If none of the above apply, the sale is sourced to the location indicated by an address obtained by the seller during consummation of the sale.
- If none of the prior rules apply, the sale is sourced based on the origin of the product. For digital goods, this is the location where the good was “first available for transmission by the seller.”

As noted above, with digital products, the location of receipt and address of the purchaser is often not known at the time of the sale, so, a single standalone sale is less likely to be sourced using destination. Digital products are more likely than traditional goods to reach the final level of the sourcing hierarchy and be sourced using origin. However, with repeated transactions, even with digital goods, the seller will often gain the location information needed to source the sale to destination and avoid resorting to the final, origin sourcing, level of the Streamlined sourcing hierarchy. (Also, see provisions requiring sellers to obtain the five-digit zip code discussed below.)

The Streamlined Agreement also imposes a due diligence standard on sellers¹² and provides some liability relief to sellers.¹³ Additionally, the Streamlined Agreement contains a provision allowing for origin-based sourcing for intrastate sales.¹⁴

ii. The Situation Where There is No Need for a Physical Address

In many instances involving digital products, the transaction will require no physical address for either delivery or for payment processing. In these cases, the Streamlined Agreement requires the seller to request a nine-digit zip code and to require a five-digit code.¹⁵ The origin of the sale is the ultimate backup source if destination cannot be determined. The Streamlined Agreement contains liability relief provisions for these situations as well.¹⁶

¹² See Streamlined Agreement §§ 309(A)(2) and (A)(3)(a).

¹³ Streamlined Agreement § 306.

¹⁴ Streamlined Agreement § 310.1.

¹⁵ Streamlined Agreement §§ 309(A)(3) and (A)(4).

¹⁶ Streamlined Agreement § 306.

B. Survey of Select non-Streamlined States

New Mexico

New Mexico uses destination-based sourcing and a cascading hierarchy for receipts from the sale or license of property (which includes licenses of digital goods). The first step is the seller's location if the property is received at the location of the seller. If the property is not received at the location of the seller, then the source is the location indicated for delivery to the purchaser. If that location is not known to the seller, then the source is the purchaser's address, as held by the seller and maintained in the ordinary course of business. If none of the preceding rules apply, then the source is the location of the purchaser obtained during consummation of the sale, which can include the billing address. Finally, if none of the preceding apply, the source is the location from which the property was shipped or transmitted, in other words, the origin.¹⁷ This sourcing hierarchy is similar to the Streamlined hierarchy.¹⁸ In addition, California and Colorado (among others) have adopted sourcing hierarchies that are substantially similar to that in New Mexico.¹⁹

For services, New Mexico provides specific rules for certain services and provides that for services not specifically treated, the source is where the product of the services is delivered.²⁰ New Mexico's law provides that services not performed in New Mexico are sourced to New Mexico if the product of the service is initially used in New Mexico.²¹ The New Mexico administrative rules specifically address advertising, stating that the initial use is the location of the intended recipient of the advertising from the perspective of the person who purchases the advertising.²²

In a letter ruling, New Mexico characterized a transaction as a license of intangibles and determined that the income from the license should be to the location where the license will "normally be exercised."²³

Hawaii

Hawaii has a broad tax base like New Mexico and sources receipts from sales of other than TPP using exemptions rather than sourcing rules.²⁴ Hawaii uses destination-based sourcing

¹⁷ N.M. STAT. ANN. § 7-1-14.C.

¹⁸ See Streamlined Agreement § 310(A)(1)-(5); see also, COLO. REV. STAT. § 39-26-104(3)(a)(I)-(V) (another example of a similar destination-based sourcing hierarchy).

¹⁹ See CAL. REV. & TAX. CODE § 6010.5(b)(1)-(4) (effective January 1, 2027) and COLO. REV. STAT. § § 39-26-104(3)(a)(I)-(V).

²⁰ N.M. STAT. ANN. § 7-1-14.F(5).

²¹ N.M. STAT. ANN. § 7-9-3.5.A(1); N.M. ADMIN. CODE § 3.2.1.18.A.

²² N.M. ADMIN. CODE § 3.2.1.18.F.

²³ N.M. Taxation and Revenue Department, Rul. 401-12-2 (September 28, 2012).

²⁴ See HAW. REV. STAT. §§ 237-29.53 & 237-29.57.

for gross revenue from services, based on where the service is used or consumed.²⁵ Similar rules are in place for gross revenue from intangible property.²⁶

For services specifically, Hawaii provides a set of rules addressing specific services, plus a catchall provision.²⁷ The basic statement of the rule is that the gross income from services that are used or consumed outside of Hawaii are exempt from tax.²⁸ These service-specific rules are based on the nature of the service and are not relevant to sourcing digital products.

The catchall provision is relevant to digital products and to this Whitepaper. The catchall provides a set of rules based on whether the purchaser is a business and whether the service is related to the purchaser's business activities. Based on these parameters, the service may be sourced to where the related business activities occur, to the purchaser's principal place of business, or, if the purchaser is an individual, to the purchaser's residence.²⁹

Pennsylvania

Pennsylvania uses destination-based sourcing.³⁰ In Pennsylvania, many taxable digital products are considered TPP, meaning the sourcing is done through the general TPP destination-sourcing rule.³¹ At least one ruling mentions the sourcing of computer software, which is treated as TPP. The ruling sources software sales to the location of the end user of the software. The ruling states that the billing address creates a presumption that the end users are located in the state of the billing address.³²

According to regulation, services delivered to locations within Pennsylvania are sourced to Pennsylvania.³³ The underlying Pennsylvania statute states that sales at retail "within this commonwealth" are taxable.³⁴

New York

New York uses destination-based sourcing, generally relying on the point of delivery or point at which possession is transferred by the seller to the purchaser.³⁵ "Transfer of

²⁵ HAW. REV. STAT. § 237-29.53.

²⁶ HAW. REV. STAT. § 237-29.57; HAW. CODE. R. § 18-237-29.57-01.

²⁷ HAW. CODE. R. § 18-237-29.53-01 et seq.

²⁸ HAW. CODE. R. § 18-237-29.53-02.

²⁹ HAW. CODE. R. § 18-237-29.53-11.

³⁰ 72 PA. CONS. STAT. § 7202(a)-(b); 61 PA. CODE § 32.5(a)-(b).

³¹ See generally, Penn. Ltr. Rul. SUT-17-002 (May 17, 2017) and Penn. Ltr. Rul. SUT-12-001 (May 31, 2012) (both determine that cloud-based products granting access to prewritten software are tangible personal property).

³² Penn. Ltr. Rul. SUT-12-001 (May 31, 2012) (this is for canned software, which is considered TPP).

³³ 61 PA. CODE § 32.5(a).

³⁴ 72 PA. CONS. STAT. § 7202(a).

³⁵ N.Y. COMP. CODES R. AND REGS. TIT. 20, § 525.2(a)(3).

possession’ is elaborated on in a regulation; the provision provides that a sale is sourced to where the TPP or service is delivered, or to the point at which possession is transferred by the seller to the purchaser.³⁶ Mere passing of title in New York does not mean that the transaction would be sourced to New York.³⁷

New York has long provided that if the delivery of information or use of software takes place outside New York or in multiple states, then tax is collected only on receipts attributable to delivery or users located in New York.³⁸

In a 1990 ruling, New York addresses the sourcing of information services. The ruling cites to a regulation providing that the sales tax is a destination-based tax,³⁹ suggesting this is the sourcing philosophy to be used for more than just traditional TPP. Substantively, the ruling provides that the sales tax on information services should be allocated based on the access the client has both within and without New York. The ruling makes clear that the allocation is based on the access the purchaser has, not the actual frequency of access the purchaser eventually enjoys.⁴⁰

For cloud computing and software accessed electronically, more generally, New York has sourced sales to the location of the users of the software, although this interpretation is in the context of TPP.⁴¹

3. Multiple Points of Use

A. The Problem

As the above discussion shows, the physical location, or location of initial use, of digital products is less fixed and more difficult to determine than for traditional products. But there is a second problem. Unlike traditional products, digital products are more likely to be available for concurrent use in multiple jurisdictions.⁴²

This problem also applies to prewritten software. Such software has long been deemed TPP for sales tax purposes in most states, so it follows that it should be sourced as TPP.

³⁶ N.Y. COMP. CODES R. AND REGS. TIT. 20, § 526.7(e)(1).

³⁷ N.Y. COMP. CODES R. AND REGS. TIT. 20, § 526.7(e)(2).

³⁸ N.Y. State Department of Taxation and Finance, TSB-A-24(9)S (July 30, 2024); *see also* N.Y. State Department of Taxation and Finance, TSB-A-15(51)S; TSB-A-03(5)S (January 31, 2003) and TSB-A-90(43)S (August 20, 1990).

³⁹ N.Y. COMP. CODES R. AND REGS. TIT. 20, § 525.2(a)(3).

⁴⁰ N.Y. State Department of Taxation and Finance, TSB-A-90(43)S (August 20, 1990).

⁴¹ *See* N.Y. State Department of Taxation and Finance, TSB-A-11(17)S (June 1, 2011) and TXB-A-17(15)S (August 1, 2017); interpreting N.Y. TAX LAW § 1101(b)(5) and N.Y. COMP. CODES R. & REGS. tit. 20, § 526.7(e).

⁴² HELLERSTEIN, HELLERSTEIN & APPLEBY, STATE TAXATION, § 19A.06[3] (3rd ed. 2026).

However, despite its deemed status, prewritten software bears few characteristics of traditional TPP and, today, is rarely delivered in a physical format. Rather, the characteristics of canned software also allow it to be used concurrently in multiple jurisdictions.

B. The Solutions?

Several states and Streamlined have developed responses to the issue of concurrent use. These include multiple points of use (MPU) sourcing regimes and direct pay permits. These typically shift the responsibility for reporting the tax from the seller to the buyer. The buyer is allowed to estimate their state-by-state use, or report actual use, and report the correct amount of tax to each state. Would that it were so simple. MPU and direct pay regimes are complicated and fraught with issues. Several MPU and direct pay regimes are surveyed below.

i. Massachusetts

Process as of August 2026

Massachusetts provides an MPU exemption⁴³ modeled after the former Streamlined exemption.⁴⁴ The exemption generally applies to prewritten computer software.⁴⁵ However, it does not apply to prewritten computer software that is either received in-person⁴⁶ or loaded onto hardware prior to sale.⁴⁷

Massachusetts' MPU rule provides that if the purchaser knows at the time of purchase that the prewritten software will be concurrently available for use in multiple jurisdictions, then the purchaser shall provide an MPU certificate at the time of purchase.⁴⁸ An MPU certificate remains in effect for all future sales by the seller to the purchaser until revoked in writing.⁴⁹

The receipt of an MPU certificate relieves the seller of liability to collect and pay the tax.⁵⁰ The purchaser issuing the certificate must pay the tax⁵¹ based on a reasonable, but consistent

⁴³ 830 MASS. CODE REGS. 64H.1.3(15). The regulation is issued under MASS. GEN. LAWS ch. 64H, § 1, which enables the commissioner to issue regulations for the apportionment of software transferred for use in more than one state.

⁴⁴ Notes from the October 9, 2025 Digital Work Group Meeting, <https://www.mtc.gov/wp-content/uploads/2025/10/Meeting-Notes-Digital-Goods-10-9-25-FINAL.pdf> (for more on the Streamlined MPU exemption, see below).

⁴⁵ 830 MASS. CODE REGS. 64H.1.3(15)(a).

⁴⁶ 830 MASS. CODE REGS. 64H.1.3(15)(a).

⁴⁷ 830 MASS. CODE REGS. 64H.1.3(15)(a)(6).

⁴⁸ 830 MASS. CODE REGS. 64H.1.3(15)(a).

⁴⁹ 830 MASS. CODE REGS. 64H.1.3(15)(a)(7).

⁵⁰ 830 MASS. CODE REGS. 64H.1.3(15)(a)(1).

⁵¹ 830 MASS. CODE REGS. 64H.1.3(15)(a)(4).

and uniform, method that is supported by the purchaser's books and records from the time of the transaction.⁵²

In 2021, a Massachusetts court held that a seller could make full payment at the time of the sale and later request a refund using MPU apportionment.⁵³ This result effectively negated the requirement that an MPU certificate be issued at the time of the transaction. Addressing this result, the Massachusetts Department of Revenue stated it would accept apportionment based on the number of licensed users in a particular state.⁵⁴

According to a presentation to the work group on October 9, 2025, most transactions in Massachusetts seeking MPU treatment are handled via a refund claim rather than the issuance of an MPU certificate at the time of the transaction.⁵⁵ The presentation identified several issues with this. First, the question becomes actual use of the software, rather than the anticipated use. Second, under the sales tax law the *seller* must make a refund request, but it is the *purchaser* that should receive the economic benefit of the refund. Third, administering the refund process is labor-intensive. Finally, the refund process leads to excess tax collection followed by large refunds.

Proposed Process under Working Draft

As of August 2026, Massachusetts has a working draft of replacement rules for their MPU process.⁵⁶ The working draft requires the purchaser to pre-register with the Department of Revenue,⁵⁷ obtain a Software Apportionment Certificate, and follow the other requirements of the regulation.⁵⁸ The certificate must be presented to the seller at the time of purchase.⁵⁹ The working draft allows the seller to claim apportionment at the time of the sale or after the sale.⁶⁰ In addition, the purchaser must provide the seller with a separate written statement of the apportionment percentage to be used.⁶¹ If all of this is done in good faith, then the seller can collect tax based on the given apportionment percentage.⁶²

⁵² 830 MASS. CODE REGS. 64H.1.3(15)(a)(2).

⁵³ *Oracle, USA, Inc. v. Commissioner of Revenue*, 487 Mass. 518, 168 N.E.3d 349 (2021).

⁵⁴ Mass. Tech. Info. Release TIR 22-8.

⁵⁵ Notes from the October 9, 2025 Digital Work Group Meeting, <https://www.mtc.gov/wp-content/uploads/2025/10/Meeting-Notes-Digital-Goods-10-9-25-FINAL.pdf>; *see also*, notes from the June 6, 2025 Digital Work Group Meeting, <https://www.mtc.gov/wp-content/uploads/2025/07/Digital-Work-Group-Notes-6-5-25.pdf>.

⁵⁶ 830 MASS. CODE REGS. 64H.1.3(5) (working draft), https://www.mass.gov/regulations/830-CMR-64h13-computer-software-and-related-transactions-working-draft?utm_medium=email&utm_source=govdelivery.

⁵⁷ 830 MASS. CODE REGS. 64H.1.3(5)(c)(1) (working draft).

⁵⁸ 830 MASS. CODE REGS. 64H.1.3(5)(a) and (b) (working draft).

⁵⁹ 830 MASS. CODE REGS. 64H.1.3(5)(c)(2) (working draft).

⁶⁰ 830 MASS. CODE REGS. 64H.1.3(5)(b) (working draft).

⁶¹ 830 MASS. CODE REGS. 64H.1.3(5)(c)(3) (working draft).

⁶² 830 MASS. CODE REGS. 64H.1.3(5)(c)(4) (working draft).

The working draft provides guidance on appropriate apportionment methods and specifies that apportionment done at the time of purchase must be based on the reasonably anticipated location of use, but apportionment done after the time of purchase must be based on actual use.⁶³

The working draft also gives direct guidance for claiming apportionment after the time of purchase. The guidance requires the seller to claim a refund and include the Software Apportionment Certificate and the purchaser's written statement of the apportionment percentage with the refund claim.⁶⁴ The working draft also provides a method for the purchaser to make the claim itself, requiring the purchaser to obtain a power of attorney from the seller. Such a claim still requires a Software Apportionment Certificate and the purchaser's written statement of the apportionment percentage.⁶⁵

ii. Washington

Washington provides an MPU exemption applicable to eligible products concurrently available for use both inside and outside of Washington. Eligible products are: digital goods, digital codes, digital automated services, prewritten computer software, and remote access software.⁶⁶ Concurrently available for use means an employee or agent of the taxpayer may use the products simultaneously at locations both inside and outside Washington.⁶⁷ Additionally, only buyers that are businesses or other organizations can use the MPU exemption.⁶⁸

If the MPU exemption is appropriately used, the tax due is apportioned based on the number of users in Washington compared to the number of users everywhere.⁶⁹ Furthermore, the Department can require or allow an alternative apportionment to better reflect the proportion of in-state and out-of-state use.⁷⁰

Application to bundled transactions: Washington's MPU exemption can be applied to bundled transactions, specifically software maintenance agreements (SMAs), if: (1) there are MPU-eligible products in the SMA that are used concurrently inside and outside Washington; (2) the products in the SMA that are not taxable at the retail rate relate to the

⁶³ 830 MASS. CODE REGS. 64H.1.3(5)(d)(1) and (2) (working draft).

⁶⁴ 830 MASS. CODE REGS. 64H.1.3(5)(e)(1) (working draft).

⁶⁵ 830 Mass. Code Regs. 64H.1.3(5)(e)(2) (working draft).

⁶⁶ WASH. REV. CODE § 82.08.0208(4)(a).

⁶⁷ WASH. REV. CODE § 82.08.0208(4)(d).

⁶⁸ WASH. REV. CODE § 82.08.0208(4)(b).

⁶⁹ WASH. REV. CODE § 82.12.0208(7)(a).

⁷⁰ WASH. REV. CODE § 82.12.0208(7)(a).

MPU-eligible products; and (3) the only products in the SMA that are taxable at retail are MPU-eligible products.⁷¹

iii. Maryland

Maryland allows an MPU apportionment. An MPU certificate is issued from the purchaser to the seller and switches the obligation to pay from the seller to the purchaser.⁷² MPU apportionment is limited to these MPU-eligible items: sales of digital codes, digital products, data or information technology services, and system software or application software publishing services.⁷³

If the purchaser of an MPU-eligible product knows, at the time of purchase, that the product will be concurrently available for use in more than one taxing jurisdiction,⁷⁴ and an authorized purchaser delivers a “properly produced and issued” MPU certificate to the seller,⁷⁵ at or before the time of purchase,⁷⁶ then the seller is relieved of the obligation to collect and pay and the purchaser must pay the tax.⁷⁷

The purchaser is allowed to use any reasonable, but consistent and uniform, method of apportionment if that method is supported by the purchaser’s records at the time of the transaction and accurately reflects the primary use location.⁷⁸

The Maryland MPU regime was amended in 2026 to make clear there was no requirement for a buyer to obtain prior approval from the Maryland Comptroller’s Office or to provide an estimate of apportioned use in Maryland before generating an MPU certificate.⁷⁹ As amended, to generate an MPU certificate, the authorized purchaser must provide their name, address, and Maryland combined registration number, the name and address of the seller, and a statement affirming that all of the purchases by the authorized purchaser from the seller will have multiple points of use.⁸⁰ Prior to these changes the Comptroller required

⁷¹ Wash. Excise Tax Advisory 3242.2025.

⁷² MD. CODE ANN., TAX-GEN. § 11-403(f)(3); *see also*, 34 TEX. ADMIN. CODE § 3.330(g)(6) (providing a similar allowance for data processing services).

⁷³ MD. CODE ANN., TAX-GEN. § 11-403(f)(1); note that data or information technology services are those described under NAICS Sectors 518, 519, or 5415 and system software or application software publishing services are those described under NAICS Sector 5132.

⁷⁴ MD. CODE ANN., TAX-GEN. § 11-403(f)(1)(i).

⁷⁵ MD. CODE ANN., TAX-GEN. § 11-403(f)(3).

⁷⁶ MD. CODE ANN., TAX-GEN. § 11-403(f)(1)(ii).

⁷⁷ MD. CODE ANN., TAX-GEN. § 11-403(f)(3).

⁷⁸ MD. CODE ANN., TAX-GEN. § 11-403(f)(6).

⁷⁹ MD. CODE ANN., TAX-GEN. § 11-403(f)(11) & (12).

⁸⁰ MD. CODE ANN., TAX-GEN. § 11-403(f)(11).

MPU certificates to be preapproval and required an estimate of the apportioned use in Maryland.⁸¹

As an alternative to the entire MPU process, purchasers can request a refund of sales and use taxes paid to another jurisdiction based on the use in the other jurisdiction.⁸²

iv. Streamlined

The work group discussed the history of the Streamlined MPU project at its October 9, 2025 meeting.⁸³ Streamlined created and adopted MPU rules that were later repealed.⁸⁴ Two issues noted during the work group meeting were how to allow credits for taxes paid to other states and changing usage over time, meaning that the apportionment of use estimated at the time of the transaction might diverge from the actual use.

Regarding credits, there was concern that the jurisdiction of initial delivery or use might tax the full amount of the transaction and refuse to offer credits for taxes paid to other jurisdictions based on the apportioned use of the product. Further, one participant noted that the universe of MPU-eligible items was limited at the time, so, the MPU discussion may have just been premature. A more detailed history of the Streamlined MPU project is provided in the treatise *State Taxation*.⁸⁵

Though repealed, the Streamlined rule is worth summarizing.⁸⁶ It applied to business purchasers of digital goods, computer software, and services. The rule provided that if the purchaser knew at the time of the purchase that such product would be used concurrently in multiple jurisdictions it could provide an MPU certificate to the seller at the time of the purchase. The receipt of a proper MPU certificate would relieve the seller of liability to collect and pay.

The MPU certificate was effective for all future sales by the seller to the purchaser unless revoked in writing. The purchaser paid the tax if they provided an MPU certificate. The purchaser could use any reasonable, but consistent, apportionment method that was supported by its books and records kept at the time of the transaction.

⁸¹ Md. Tech. Bulletin 54 (Revised September 12, 2025).

⁸² Md. Tech. Bulletin 54 (Revised September 12, 2025).

⁸³ Notes from the October 9, 2025 Digital Work Group Meeting, <https://www.mtc.gov/wp-content/uploads/2025/10/Meeting-Notes-Digital-Goods-10-9-25-FINAL.pdf>.

⁸⁴ Streamlined Agreement section 312 (repealed) (the Streamlined MPU rules were repealed at the same time their rules for multiple software licenses were adopted, Streamlined Rules and Procedures, Rule 309.1-309.5); see Compiler's Notes to the Streamlined Agreement and also Interpretation Recommendation 2006-07 (August 29, 2006).

⁸⁵ HELLERSTEIN, HELLERSTEIN & APPLEBY, *STATE TAXATION*, § 19A.06[3] (3rd ed. 2026).

⁸⁶ Streamlined Agreement section 312 (repealed) (recreated in the Compiler's Notes to the Streamlined Agreement).

The Streamlined MPU rule also provided for the situation where a certificate is not provided at the time of the sale, but the seller knows the product will be used concurrently in multiple jurisdictions. In these cases, the rule allowed the seller to work with the purchaser to produce the correct apportionment.

v. Another Option – Direct Pay

As an alternative to the MPU rules discussed above, states may also provide for purchasers to directly pay the tax in certain circumstances. New York has a direct pay process⁸⁷ that allows the purchaser to pay the tax rather than the seller if, at the time of the transaction, it is impossible to determine how the purchased TPP or services will be used.⁸⁸

New York regulations provide additional detail, describing the direct pay permit as providing notice to a seller that their duty to collect the tax is waived and that the permit holder will pay the tax.⁸⁹ The regulations require the purchaser itself to be registered as a seller and to have timely filed returns for the four quarters prior to the application for a permit.⁹⁰ Furthermore, the application for a permit must include the purchaser's and seller's identifying information, a description of the business conducted, and a statement explaining the need for the permit.⁹¹

The regulations prohibit the use of a direct pay permit to defer payment, to substitute for an exemption certificate, or to transfer a permit holder's privileges to another person.⁹²

The permit holder is required to determine the taxable status of the use of property or services purchased and pay tax based on that status.⁹³ The permit holder must keep records reflecting the location of use of the items.⁹⁴

4. Federal Sources

Both the Mobile Telecommunications Sourcing Act and the Digital Goods and Services Tax Fairness Act (never enacted, last introduced in 2019), contain sourcing language relevant to this Whitepaper. Both dictate limitations on sourcing. The relevant language is presented below. Links to the full language are provided in the footnotes.

⁸⁷ N.Y. TAX LAW § 1132(c)(2).

⁸⁸ New York is not unique, other states have direct pay regimes as well, some in addition to MPU regimes, like Ohio, *see* OHIO REV. CODE ANN. § 5739.031.

⁸⁹ N.Y. COMP. CODES R. & REGS. tit. 20, § 532.5(a); *see also*, N.Y. Tax Bulletin TB-ST-163 (June 24, 2013).

⁹⁰ N.Y. COMP. CODES R. & REGS. tit. 20, § 532.5(b).

⁹¹ N.Y. COMP. CODES R. & REGS. tit. 20, § 532.5(c)(2).

⁹² N.Y. COMP. CODES R. & REGS. tit. 20, § 532.5(e)(2).

⁹³ N.Y. COMP. CODES R. & REGS. tit. 20, § 532.5(f)(1).

⁹⁴ N.Y. COMP. CODES R. & REGS. tit. 20, § 532.5(f)(2).

A. Mobile Telecommunications Sourcing Act

The relevant sourcing provisions of the Mobile Telecommunications Sourcing Act⁹⁵ are below.

§ 117. Sourcing Rules.

(b) Jurisdiction. – All charges for mobile telecommunications services that are deemed to be provided by the customer’s home service provider under sections 116 through 126 of this title are authorized to be subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer’s place of primary use, regardless of where the mobile telecommunication services originate, terminate, or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services.

B. Digital Goods and Services Tax Fairness Act

The Digital Goods and Services Tax Fairness Act⁹⁶ (DGSTFA) did not become law but contains sourcing provisions that might be useful.⁹⁷ The relevant sourcing provisions are below.

SEC. 3. SOURCING LIMITATION.

Subject to section 6(a), taxes on the sale of a covered electronic good or service may only be imposed by a State or local jurisdiction whose territorial limits encompass the customer tax address.

SEC. 4. CUSTOMER TAX ADDRESS

(e) MULTIPLE LOCATIONS.—

(1) IN GENERAL.—If a digital [product] is [...] available for use by the customer in multiple locations simultaneously, the seller may determine the customer tax addresses using a reasonable and consistent method based on the addresses of use as provided by the customer and determined in agreement with the customer at the time of sale or at a later time.

⁹⁵ Pub. L. No. 106-252, 114 Stat. 630 (2000) (codified at 4 U.S.C. § 123). Link [here](#).

⁹⁶ Digital Goods and Services Tax Fairness Act of 2019, S. 765, 116th Cong. (2019). Link [here](#).

⁹⁷ For more on the implications of the DGSTFA, see Digital Goods and Services Tax Fairness Act of 2013 – Administrative Issues, prepared by Tax Counsel for the Federation of Tax Administrators, November 2013; Helen Hecht, *Sourcing of Digital Goods and Services for Sales Tax – The Evolution of a Federal Legislative Proposal*, prepared for the National Tax Association Annual Conference on Taxation, 2014. (link [here](#)).

(2) DIRECT CUSTOMER PAYMENT.—

(A) ESTABLISHMENT OF DIRECT PAYMENT PROCEDURES.—Each state shall provide reasonable procedures that permit the direct payment by a qualified customer [...] of taxes that are on the sale of covered electronic goods or services to multiple locations of the customer [...]

SEC. 7. DEFINITIONS.

(4) Customer Tax Address.—

(A) In General. — The term “customer tax address” means—

- (i) with respect to the sale of a covered electronic good or service that is received by the customer at a business location of the seller, such business location;
- (ii) if clause (i) does not apply and the primary use location of the covered electronic good or service is known by the seller, such location;
- (iii) if neither clause (i) nor clause (ii) applies, and if the location where the covered electronic good or service is received by the customer, or by a donee of the customer that is identified by such customer, is known to the seller and maintained in the ordinary course of the seller’s business, such location;

...

The provisions in both the above federal sources are focused on preventing more than one jurisdiction from taxing a given transaction or item. To do this, both provisions use destination-based sourcing and rely on determining the “territorial limits” of the purchaser’s location.

The DGSTFA’s definition of “customer tax address” explicitly focuses on addresses that the seller knows. Likewise, the DGSTFA’s direct pay provision is based on information the seller knows. The language describes a process requiring communication between the seller and customer.

5. Takeaways

Sourcing in General

As states add digital products to their tax bases, the need for specific sourcing rules will increase. Our survey demonstrates that for states with broader sales tax bases (including for digital products), like New Mexico and Hawaii, sourcing gets more attention. New Mexico provides a detailed sourcing rule for sales of other than TPP. Hawaii, with a similarly broad tax base, sources receipts from sales of other than TPP using exemptions rather than sourcing rules, but sources the receipts nonetheless.

In contrast, states with more traditional sales taxes, like New York and Pennsylvania, provide fewer standalone sourcing rules for transactions involving items that do not have the characteristics of TPP. In these states, the need to specifically define or enumerate each taxable service or digital product for inclusion in the tax base means the taxability question—whether tax is imposed on a given item at all—is the primary question, rather than sourcing. The sourcing rules these states do have are often derivative of the sourcing used for sales of TPP, or are based on a general principle of sales tax sourcing.⁹⁸

The two federal provisions covered above also demonstrate this same idea of the need for sourcing rules when addressing services or digital products. Both federal provisions represent restrictions on sourcing digital products but without such restrictions regarding traditional TPP.

The Streamlined sourcing hierarchy is active in the 24 Streamlined member states and is also very similar to the sourcing hierarchies used in some non-Streamlined states, including New Mexico and Colorado. This demonstrates not only broad adoption, but flexibility, as taxes as distinct as New Mexico's, Colorado's, and California's are adapting them.⁹⁹ For these reasons, the Streamlined sourcing hierarchy is a solid starting point for any state considering addressing sourcing to this level of detail.

*General Sourcing Focus Points*¹⁰⁰

Any proposed sourcing rule for digital products or services should be evaluated to ensure compatibility with the existing sales tax system. The following are some issues that

⁹⁸ See N.Y. COMP. CODES R. AND REGS. TIT. 20, § 525.2(a)(3) (stating that the sales tax is a “destination tax”); see also 72 PA. CONS. STAT. § 7202(a) and 61 PA. CODE § 32.5(a) (providing a sourcing rule based on the statement “within this commonwealth” in the statute).

⁹⁹ See supra note 19 and accompanying text.

¹⁰⁰ This list is adapted from 2014 document prepared by staff of the Multistate Tax Commission, see Helen Hecht, *Sourcing of Digital Goods and Services for Sales Tax – The Evolution of a Federal Legislative Proposal*, prepared for the National Tax Association Annual Conference on Taxation, 2014. (link [here](#)).

policymakers should focus on when considering sourcing rules. The list draws heavily from prior work from Multistate Tax Commission staff.

- Differences Between What Seller and Buyer May Know - Sourcing rules may be based on the location of certain activities or events, i.e., the location of performance, delivery, or use. Because the seller generally must collect tax at the time of a transaction, it is important to focus on what the seller is likely to know at that time. A seller is more likely to know the location of performance than where the purchaser receives the benefit. For an example of this, see MPU regimes' general requirement that the *buyer* provide the approximate apportioned use in the state rather than the *seller*.
- Distinguishing Between Performance and Delivery – The sourcing of any transaction with a performance element by the seller should distinguish between the performance and delivery of the service. In a destination-based system, the delivery is important, but the seller will not always have full access to delivery location information, particularly with digital products or digital services. However, the seller will always know the location of its own performance. If there is no clear description of delivery and delineation between delivery and performance, there is a chance performance will become a convenient default.
- Ways in Which the Buyer's Use May Affect Sourcing - Related to distinguishing performance from delivery is a focus on the activities of the purchaser. The way the purchaser interacts with the service or digital product received can determine or change the sourcing. So, for example, the idea of the buyer's "use" of the service or product at a particular location naturally raises the question of what activities of the buyer constitute use. This is important to MPU as well.
- Avoidance of Categorical Sourcing Distinctions - Avoiding categorical sourcing distinctions is likely to help minimize controversy. The more consistent the sourcing rules are across categories—TPP, services, intangibles—the less incentive there will be to challenge the categorization. If there is no line between categories, there is no line-drawing problem.

Multiple Points of Use

The MPU issue is a product of the interaction between destination-based sourcing and the nature of digital products. The history of the Streamlined MPU rule makes clear the topic is a difficult one, but also that the Streamlined discussion (in 2006) was possibly before its

time. Now, based on the number of jurisdictions that have some type of MPU system in place, it appears the time has come.¹⁰¹

The two federal provisions covered above focus on restricting sourcing to a single location based on the “territorial limits” of the purchaser’s location. This appetite to restrict sourcing appears to come from the recognition that digital products are more susceptible to being sourced to multiple locations than traditional products. Adding digital products to the sales tax base may put pressure on state sourcing rules, and lead to more need for an MPU regime, especially to the extent business purchases are included. (See the role of exemptions below.) Moreover, the need for applying MPU rules to software generally suggests that MPU is relevant regardless of the breadth of a state’s taxation of items designated as digital products; any taxation of software, even prewritten software, may create some need for an MPU allowance.

Direct pay systems, like that of New York, may alleviate the same problems as MPU regimes. Beyond this however, there are distinctions. New York’s direct pay system is available for any TPP or services where the use is unknowable at the time of purchase, whereas typical MPU regimes apply only to a specific subset of transactions. For example, Washington’s MPU regime only applies to digital goods, digital codes, digital automated services, prewritten computer software, and remote access software. Also, under New York’s direct pay system the payment is based on the purchaser’s actual use rather than on “any reasonable apportionment” as is typical under MPU regimes.

Also, as noted above, concerns have been raised over how the credit for taxes paid to other states will work in a system where some states tax digital products using a MPU system and some tax them based on a single location. Without coordinating the credits given, digital products might be, at least partially, subject to tax in multiple states.

Role of Exemptions

Exemptions, sourcing, and MPU regimes all interact within a sales tax system. The MPU issue is almost confined to sourcing of business purchases. This is because the ordinary individual retail consumer cannot use items in different locations concurrently. Many MPU regimes also limit applicability to business purchases. For this reason, exempting business-to-business purchases from the sales tax base would obviate the need for an MPU regime to the extent of the exemption.

State sourcing rules do not have to be uniform and a state that chooses not to tax items based on criteria related to location of delivery or use will not necessarily determine how

¹⁰¹ Jurisdictions with MPU rules not surveyed in detail include Minnesota, *see* MINN. STAT. § 297A.668; Ohio, *see* OHIO REV. CODE ANN. § 5739.033(D); Tennessee, *see* TENN. CODE ANN. § 67-6-231(b); and others.

other states will source or tax the items. But, given the widespread use of delivery versus origin sourcing and the use of credits for sales taxes paid to other states, any item exempted from a state's tax based on location might be considered 'sourced' to another state if the other state imposes tax on the item. For example, Hawaii provides exemptions for services and intangibles used and consumed outside Hawaii. These are, in effect, sourcing rules. Exempting the transaction in this way effectively sources the sale to the location of use or consumption. Exemptions, sourcing, and MPU are interrelated and must be considered together.