Possible Receipts Sourcing Regulation Review Projects



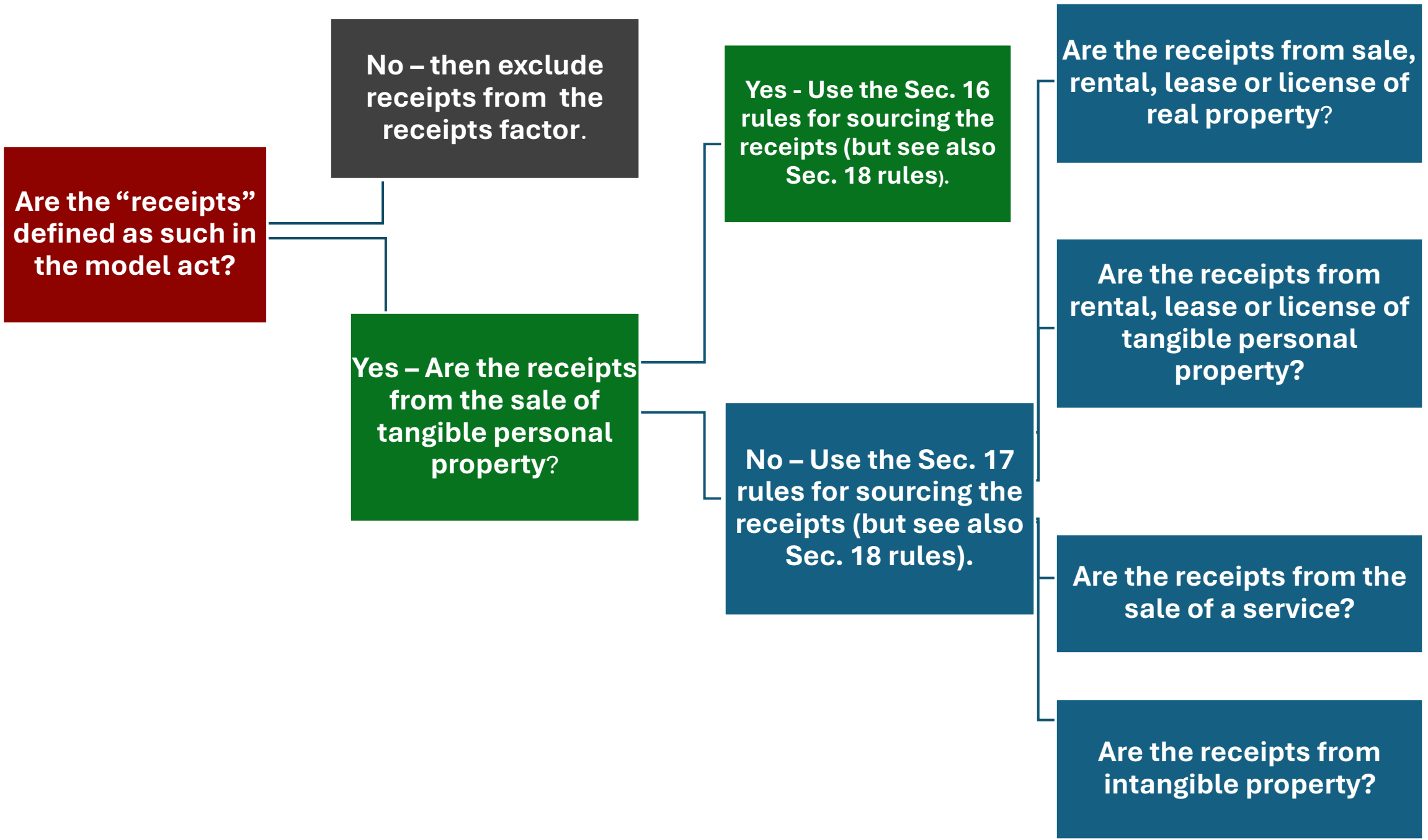
Uniformity Committee meeting

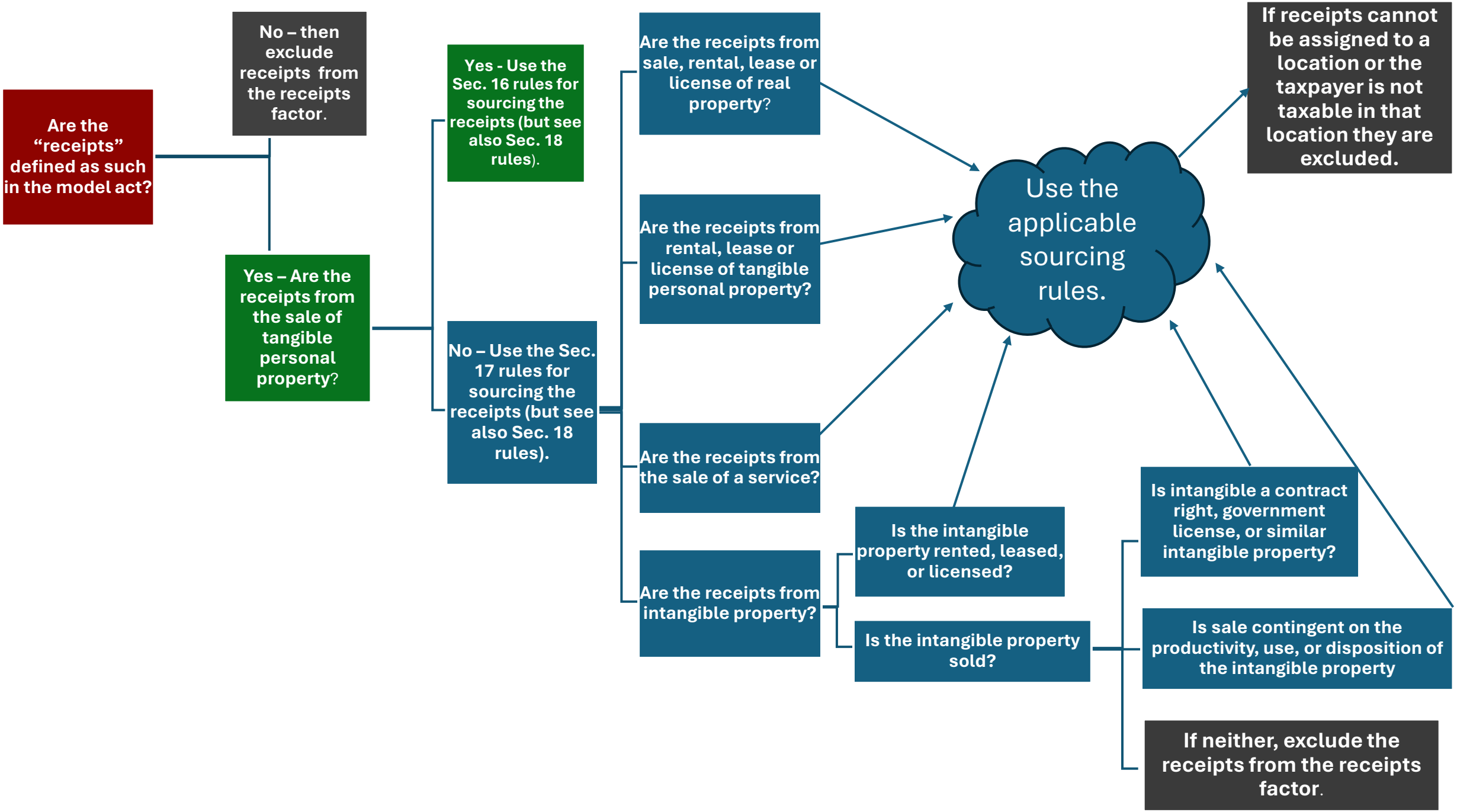
Savannah, Georgia

November 10, 2026

Background

MTC Model Regulations


Are the "receipts" defined as such in the model act?
No – then exclude receipts from the receipts factor.
Yes – Are the receipts from the sale of tangible personal property?
Yes - Use the Sec. 16 rules for sourcing the receipts (but see also Sec. 18 rules).
No – Use the Sec. 17 rules for sourcing the receipts (but see also Sec. 18 rules).
Are the receipts from sale, rental, lease or license of real property?
Are the receipts from rental, lease or license of tangible personal property?
Are the receipts from the sale of a service?
Are the receipts from intangible property?


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Are the receipts from sale, rental, lease or license of real property?
Are the receipts from rental, lease or license of tangible personal property?
Are the receipts from the sale of a service?
Are the receipts from intangible property?
Is the intangible property rented, leased, or licensed?
Is the intangible property sold?
Is intangible a contract right, government license, or similar intangible property?
Is sale contingent on the productivity, use, or disposition of the intangible property
If neither, exclude the receipts from the receipts factor.
Use the applicable sourcing rules.
If receipts cannot be assigned to a location or the taxpayer is not taxable in that location they are excluded.

What goes into the receipts factor: Are the “receipts” defined as such in the model act?

Sec. 1.(g) - “Receipts” means all gross receipts of the taxpayer that are not allocated under paragraphs of this article, and that are received from transactions and activity in the regular course of the taxpayer’s trade or business; except that receipts of a taxpayer from hedging transactions and from the maturity, redemption, sale, exchange, loan or other disposition of cash or securities, shall be excluded.

What goes into the receipts factor: Are the receipts excluded under Sec. 17?

See Sec. 17.(a)(4)(ii):

- All receipts from the sale of an intangible that are not
  - a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area . . . ;
  - contingent on the productivity, use, or disposition of the intangible property . . .

What goes into the receipts factor: Are the receipts thrown out under Sec. 17?

See Sec. 17.(c):

- If the taxpayer is not taxable in a state to which a receipt is assigned under subsection (a) or (b), or if the state of assignment cannot be determined under subsection (a) or reasonably approximated under subsection (b), such receipt shall be excluded from the denominator of the receipts factor

Receipts from sale of tangible personal property

Sec. 16

Receipts from the sale of tangible personal property are in this State if:

(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and

(1) the purchaser is the United States Government or
(2) the taxpayer is not taxable in the State of the purchaser.

Everything else

Sec. 17

(a) Receipts, other than receipts described in Section 16, are in this State if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

(1) in the case of sale, rental, lease or license of real property, if and to the extent the property is located in this state;

(2) in the case of rental, lease or license of tangible personal property, if and to the extent the property is located in this state;

Everything else

Sec. 17

(a) Receipts, other than receipts described in Section 16, are in this State if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

. . .

(3) in the case of sale of a service, if and to the extent the service is delivered to a location in this state; and

Everything else

Sec. 17

(a) Receipts, other than receipts described in Section 16, are in this State if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

. . .

(4) in the case of intangible property,

(i) that is rented, leased, or licensed, if and to the extent the property is used in this state, provided that intangible property utilized in marketing a good or service to a consumer is "used in this state" if that good or service is purchased by a consumer who is in this state; and

Everything else

Sec. 17

. . .

(4) in the case of intangible property,

. . .

(ii) that is sold, if and to the extent the property is used in this state, provided that:

(A) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is “used in this state” if the geographic area includes all or part of this state;

(B) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease or licensing of such intangible property under subsection (a)(4)(i)

MODEL RECEIPTS SOURCING REGULATION REVIEW PROJECT

Initiated by the Uniformity Committee in 2022:

- To review the MTC's model receipts sourcing regulations, including special industry regulations and more recently adopted market-based sourcing regulations and
- To identify updates, corrections, or conforming changes, to consider issues that may not be sufficiently addressed by existing model regulations, and
- To make recommendations to the Uniformity Committee for its action.

Topics assigned to the work group can ultimately result in:

- A white paper or background briefing book,
- A recommended model regulation or update to a current regulation, and/or
- A recommendation to take no action

[All work group meetings are open to the public and all interested parties are encouraged to attend and participate.]

MODEL
RECEIPTS
SOURCING
REGULATION
REVIEW
PROJECT

MTC staff have received suggestions for possible projects.

Question for the uniformity committee:

Should the regulations review work group and/or MTC staff study of any of these topics and make preliminary recommendations to the committee?



PUBLISHING – CURRENT

MTC Reg. IV.18.(j) Special Industry Rule on Publishing adopted July 30, 1990, addresses the publishing, sales, licensing, or other distribution of:

- Books, newspapers, magazines, periodicals, trade journals, and other *printed material*
- Does not expressly address modern equivalents such as social media.

PUBLISHING – ISSUE

Possible updates:

(1) Repeal current sales factor language in the special industry rule and insert a cross-reference to relevant model Sec. 17 regulations; or

(2) Update Reg. IV.18.(j)'s current language for the use by IPA/COP states and cross-reference to relevant model Sec. 17 regulations for the use of MBS states.

PROFESSIONAL SERVICES

The model MTC Section 17 regulation states that “professional services are services that require specialized knowledge and in some cases require a professional certification, license or degree.” It serves as the default if a service does not fall under (1) “In-Person services” or (2) “Services Delivered to the Customer or on Behalf of the Customer, or Delivered Electronically Through the Customer.”

Is this default category sweeping in certain services that would better be subject to a different sourcing rule?

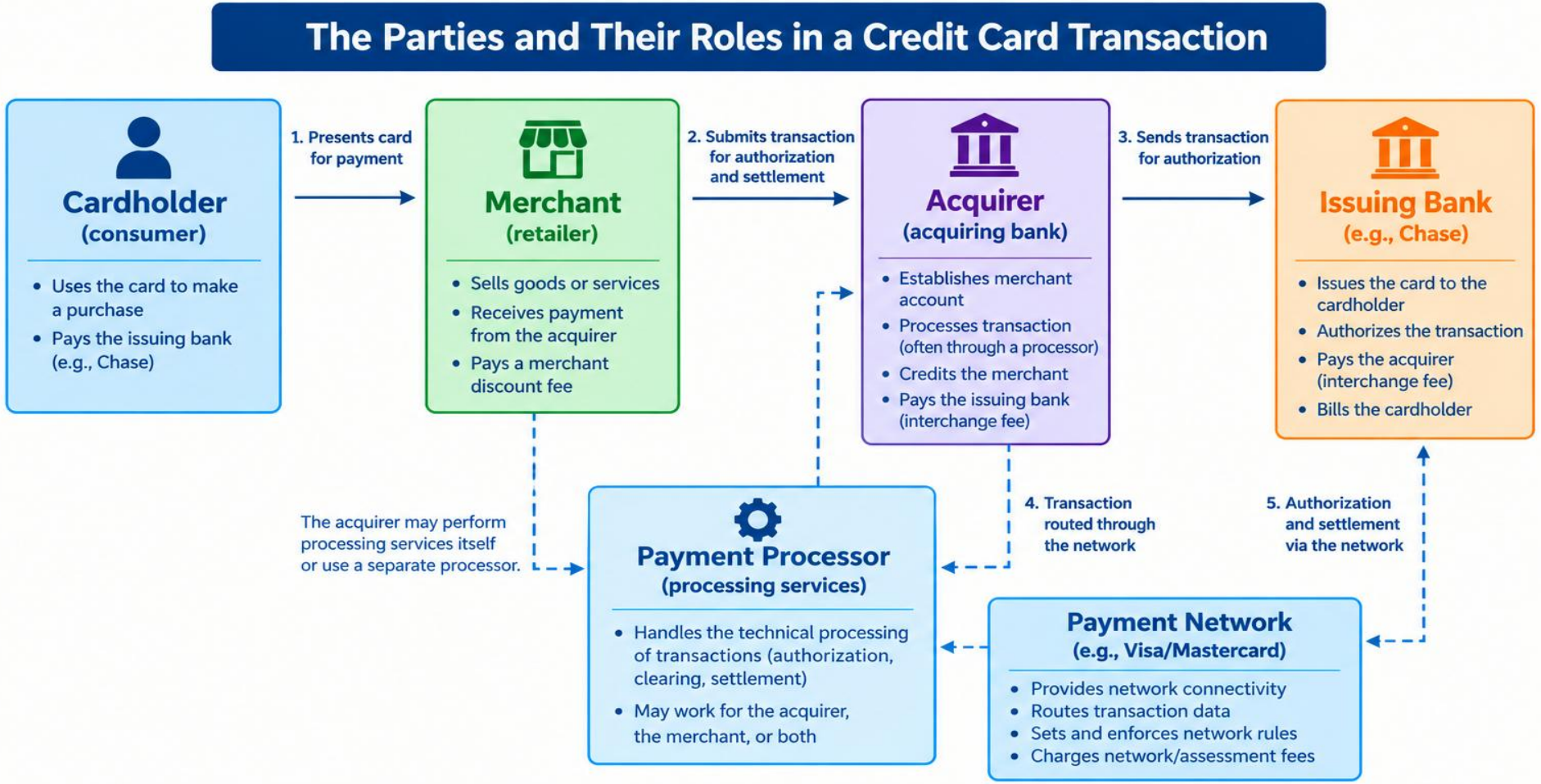
PROFESSIONAL SERVICES—GOVERNMENT CONTRACTS

Current model MTC Section 17 regulation: Receipts from sale of professional services are sourced to where the contract of sale is principally managed by the taxpayer's customer.

Is there a better rule to reflect the market in the case of sales of professional services to the U.S. Government?

CREDIT CARD PROCESSING SERVICES

Multiple parties play a role in facilitating credit card transactions:



Depending on the party, sourcing of their receipts is governed either by the model MTC Section 17 regulation or the MTC Financial Institutions model.

CREDIT CARD PROCESSING SERVICES - CURRENT

Section 17 treats credit card processing services as "professional services," which are sourced to where the contract of sale is principally managed by the taxpayer's customer.

The Financial Institutions model sources "merchant discount" fees to the "location" of the merchant if that can be determined by the taxpayer; otherwise to the billing address of the cardholder.

CREDIT CARD PROCESSING SERVICES - ISSUE

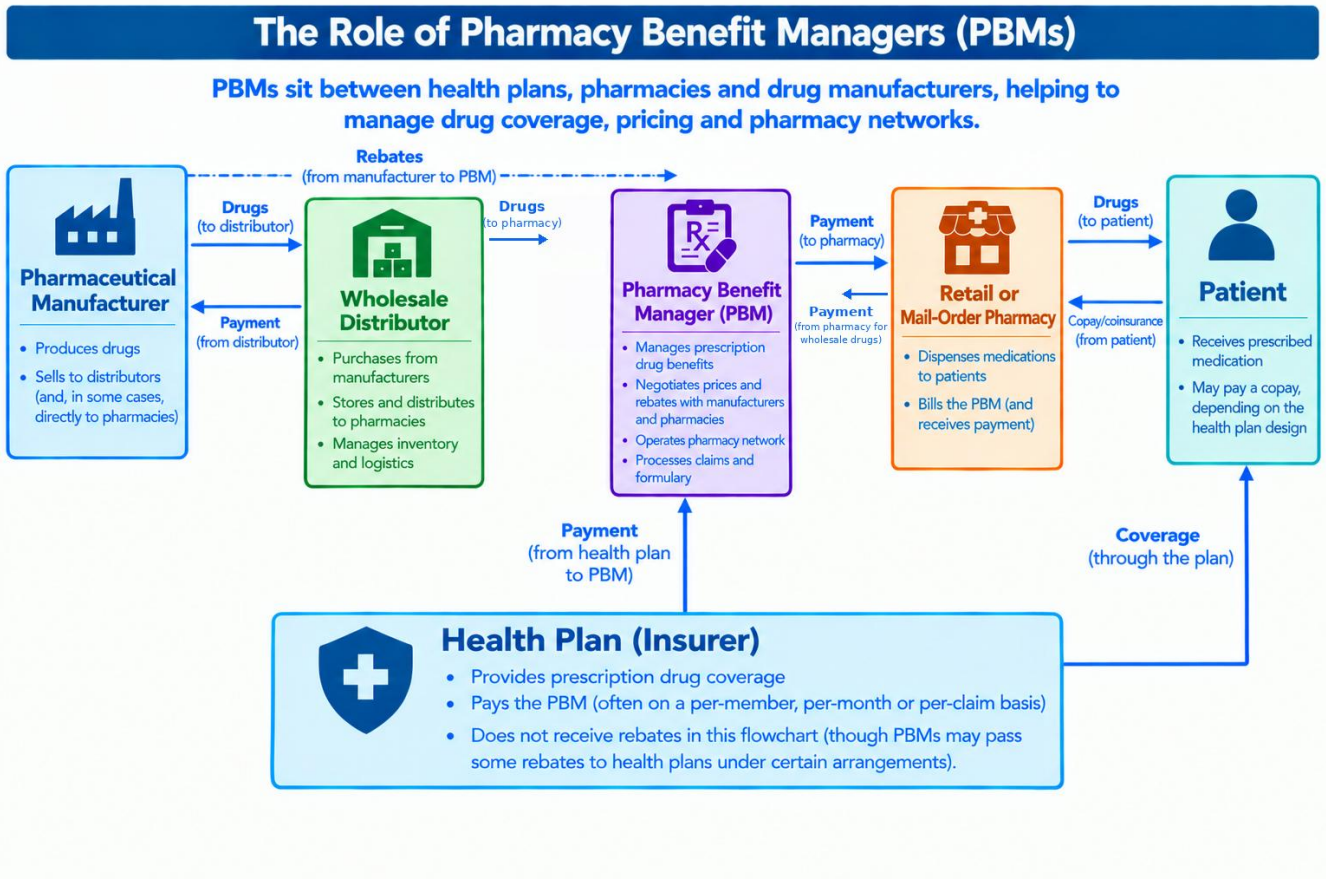
Is there a better rule to reflect the market in the case of these services?

Possible alternatives:

- Location where the card is swiped in the case in-store purchases
- Look to state population, state GDP, or state personal income

PHARMACY BENEFIT MANAGERS (PBMs) - CURRENT

The MTC's general allocation and apportionment rules do not expressly address the sourcing of receipts of PBMs.



PHARMACY BENEFIT MANAGERS (PBMs) - ISSUE

Should the application of market principles serve to source receipts of PBMs to

- the locations of their direct customers (health insurers and plan sponsors), or instead
- the locations where plan members fill their prescriptions?

How should certain rebates be treated?

Recent litigation has addressed this subject in Maine and Minnesota.

REASONABLE APPROXIMATION

The model MTC Section 17 regulation sets forth rules of reasonable approximation which apply “if the state or states of assignment cannot be determined.”

How are these rules working in practice? Is guidance needed to explain when the state or states of assignment “cannot be determined.” Is there a need to provide more guidance on what constitutes a “reasonable” method of approximation?

REASONABLE APPROXIMATION

In some instances, the reasonable approximation must be made in accordance with specific rules of approximation set forth in the regulation. Are these rules adequate?

Should Section 17 require taxpayers that do not apply reasonable approximation uniformly on returns or reports it files in different states to disclose on its return the nature and extent of the variance?

SALES OF CERTAIN TANGIBLE PERSONAL PROPERTY - CURRENT

Current model MTC Section 16(a) regulation states in part:

> Receipts from the sale of tangible personal property are in this State if:
>
> "the property is delivered or shipped to a purchaser [other than the United States Government] within this State regardless of the f.o.b. point or other conditions of the sale . . . ."

SALES OF CERTAIN TANGIBLE PERSONAL PROPERTY - ISSUE

Should this rule be clarified to source receipts to the location of the purchaser's customer in certain cases, such as where the purchaser is a distributor and the seller has control over who the ultimate buyer will be.

Alternatively, should the MTC consider adopting a model a Sec. 18 regulation to address any particular industry where the manufacturer determines to whom or where its products will be sold?

REG. IV.18 ALTERNATIVE APPORTIONMENT

UDITPA Sec. 18 UDITPA (Art. IV of the Model Compact) states that a taxpayer may petition for, or the tax administrator may require, alternative apportionment if UDITPA's allocation and apportionment provisions do not fairly represent the extent of "the taxpayer's business activity in this State."

At the time Section 18 was adopted, states utilized property, payroll, and sales to apportion income. Today, most states look entirely to the market (i.e. receipts) to apportion most categories of income.

Should Reg. IV.18 incorporate express guidance indicating that "business activity" is measured using the factors that the state has adopted to apportion income?

SUMMARY OF TOPICS

- Publishing
- Professional Services
- Professional Services—Government Contracts
- Credit Card Processing Services
- Pharmacy Benefit Managers
- Reasonable Approximation
- Sales of Certain Tangible Personal Property
- Alternative Apportionment