

## AWC– 2025 Model Ordinance update – Reclassification of Service Activities to Retail

### Introduction

In the 2025 legislative session, a change in state law (SB 5814) amended the state’s definition of retail sales to include additional services. A work group of city finance directors and tax managers, in coordination with the Association of Washington Cities (AWC), updated the model ordinance to incorporate state law changes to the definition of sales at retail.

SB 5814 changed the B&O tax classification for several classes of activities from service and other business activities to retail sales (reclassified retail activities).

- Advertising services
- Custom website development services
- Information technology services
- Investigation, security and armored car services (not locksmiths)
- Live presentations
- Sales of custom software and customization of prewritten software
- Temporary staffing services (excluding temporary staffing employed at hospitals)

For information about what activities are included in each of the terms above, please see the [Washington State Department of Revenue \(DOR\) interim guidance web page](#).

With the assistance of the AWC, WA B&O tax cities (cities) have developed guidance to assist taxpayers with sourcing gross income derived from the reclassified retail activities. A state statute requires cities to source gross income derived from the reclassified retail activities to the location where the activity takes place. Where DOR’s interim sourcing guidance that applies to the reclassified activities is consistent with sourcing gross income to the location where the activity takes place, cities have developed sourcing guidance that is consistent with the state’s guidance. However, for certain reclassified activities, cities have developed guidance more consistent with sourcing income to the location where the activity takes place.

<b>Cities sourcing guidance consistent with state guidance</b>	<b>Cities sourcing guidance more consistent with sourcing income to the location where the activity takes place</b>
<ul style="list-style-type: none"><li>• Advertising services,</li><li>• Custom website development services,</li><li>• Information technology services,</li><li>• Investigation, security, and armored car services (not locksmiths), and</li><li>• Sales of custom software and customization of prewritten software.</li></ul>	<ul style="list-style-type: none"><li>• Live presentations and</li><li>• Temporary staffing services.</li></ul>

### Existing Contracts

Washington B&O tax cities have adopted the existing contracts interim guidance published by the Department of Revenue. However, the effective date of the cities’ reclassification of service activities to retail is January 1, 2026. Effective until April 1, 2026, taxpayers with qualifying existing contracts may continue to report income derived from the reclassified activities under the service classification. See <https://dor.wa.gov/laws-rules/interim-guidance-statement-regarding-contracts-existing-prior-october-1-2025-and-changes-made-essb>.

## Advertising Services

Two classes of advertising services apply distinct rules for sourcing gross income.

- (1) *Creative advertising services (pre-dissemination)*. Taxpayers source income derived from creative advertising services to the location where the activity takes place. With respect to creative advertising services, the activity takes place at the location where the purchaser reviews the advertising or related service prior to the dissemination.
- (2) *Disseminated advertising services (including creative services in conjunction with dissemination)*.
  - (a) Taxpayers will source income derived from disseminated advertising services to the location where the activity takes place. With respect to disseminated advertising services, the activity takes place at the location where the purchaser receives the advertising deliverable. Taxpayers determine the location of receipt by applying the following cascading criteria.
    - (i) Instructions regarding where advertising will be placed for viewing,
    - (ii) Evidence identifying actual locations of placement,
    - (iii) Internet Protocol (IP) addresses of potential viewers of advertising or
    - (iv) Other similar information about where the advertising is consumed.
  - (b) If the taxpayer knows the location of the receipt of the disseminated advertising service then the following rules apply:
    - (i) If received at a single known location then disseminated advertising services must be sourced to that location.
    - (ii) If received at multiple known locations then disseminated advertising services must be sourced to those locations. Cities will accept proportional allocation to each known location based on the amount of the service received at each location or equal proportional allocation to the known locations.
  - (c) The seller of disseminated advertising services may agree with the purchaser to allocate the sale among multiple locations based on a reasonable and consistent method.
    - (i) If the purchaser will receive the disseminated advertising services in multiple locations, the seller and purchaser may allocate the sale to multiple locations based on a reasonable and consistent method.
    - (ii) At the time the seller creates the invoice the purchaser must identify the locations and agreed-upon allocation. Cities reserve the right to review the reasonableness of the parties' allocation.
  - (d) If the seller and the purchaser of disseminated advertising services do not know the location of the receipt of the services, the seller may source gross income derived from the sale of disseminated advertising services to an address based on the following cascading criteria:
    - (i) The purchaser's address identified in the seller's books and records, or, if unavailable,
    - (ii) The purchaser's address obtained by the seller at the time of sale.
  - (e) Cities reserve the right to ensure that the address that taxpayers are identifying as the location where the disseminated advertising services take place, are received or are first used are identifying the address in good faith.
- (3) Taxpayers who provide advertising services should document in their contracts, invoices or service agreements the location where they are sourcing gross income derived from the sale of such services.

## **Custom Website Development Services**

### Sourcing income derived from sales of custom website development services

- (1) For sales of custom website development services, the location where the activity takes place is where the purchaser receives the service or the location where the purchaser can potentially make first use of the service.
- (2) If the seller and purchaser of custom website development services know the locations of service, gross income derived from the sale of such services will be sourced to these known locations. Cities will accept proportional allocation to each known location based upon the amount of the service received at each location or equal proportional allocation to the known locations.
- (3) The seller of custom website development services may agree with the purchaser to allocate the sale among multiple locations based on a reasonable and consistent method.
  - (a) If the purchaser will receive the custom website development services in multiple locations, the seller and purchaser may allocate the sale to multiple locations based on a reasonable and consistent method.
  - (b) At the time the seller creates the invoice the purchaser must identify the locations and agreed-upon allocation. Cities reserve the right to review the reasonableness of the parties' allocation.
- (4) If the seller and the purchaser of custom website development services do not know the location of the receipt of the services, the seller may source gross income derived from the sale of such services to an address based on the following cascading criteria:
  - (a) The purchaser's address identified in the seller's books and records, or, if unavailable,
  - (b) The purchaser's address obtained by the seller at the time of sale
- (5) Cities reserve the right to ensure that the address that taxpayers are identifying as the location where the custom website development services take place, are received or are first used are identifying the address in good faith.
- (6) Taxpayers who provide custom website development services should document in their contracts, invoices or service agreements the location where they are sourcing gross income derived from the sale of such services.

## **Information Technology Services**

### Sourcing Gross Income Derived From Sales Of Information Technology Services

- (1) For sales of information technology services, the location where the activity takes place is where the purchaser receives the service or the location where the purchaser can potentially make first use of the service.
- (2) If the seller and purchaser of information technology services know the locations of service, gross income derived from the sale of such services will be sourced to these known locations. Cities will accept proportional allocation to each known location based upon the amount of the service received at each location or equal proportional allocation to the known locations.
  - (a) The seller of information technology services may agree with the purchaser to allocate the sale among multiple locations based on a reasonable and consistent method.
  - (b) If the purchaser will receive the information technology services in multiple locations, the seller and purchaser may allocate the sale to multiple locations based on a reasonable and consistent method.
  - (c) At the time the seller creates the invoice the purchaser must identify the locations and agreed-upon allocation. Cities reserve the right to review the reasonableness of the parties' allocation.
- (3) If the seller and the purchaser of information technology services do not know the location of the receipt of the services, the seller may source gross income derived from the sale of such services to an address based on the following cascading criteria:
  - (a) The purchaser's address identified in the seller's books and records if not used in bad faith, or, if unavailable,
  - (b) The purchaser's billing address obtained by the seller in the ordinary course of business or similar purchaser address obtained at the time of sale.
- (4) Cities reserve the right to ensure that the address that taxpayers are identifying as the location where the information technology services take place, are received or are first used are identifying the address in good faith.
- (5) Taxpayers who provide information technology services should document in their contracts, invoices or service agreements the location where they are sourcing gross income derived from the sale of such services.

## **Investigation, Security, and Armored Car Services**

### Sourcing Gross Income Derived From Sales of Investigation, Security and Armored Car Services

- (1) For sales of investigation, security and armored car services, the location where the activity takes place is where the purchaser receives the service or the location where the purchaser can potentially make first use of the service.
- (2) If the seller and purchaser of investigation, security and armored car services know the locations of service, gross income derived from the sale of such services will be sourced to these known locations. Cities will accept proportional allocation to each known location based upon the amount of the service received at each location or equal proportional allocation to the known locations.
- (3) The seller of investigation, security and armored car services may agree with the purchaser to allocate the sale among multiple locations based on a reasonable and consistent method.
  - (a) If the purchaser will receive the investigation, security and armored car services at multiple locations, the seller and purchaser may allocate the sale to multiple locations based on a reasonable and consistent method.
  - (b) At the time the seller creates the invoice the purchaser must identify the locations and agreed-upon allocation. Cities reserve the right to review the reasonableness of the parties' allocation.
- (4) If the seller and the purchaser of investigation, security and armored car services do not know the location of the receipt of the services, the seller may source gross income derived from the sale of such services to an address based on the following cascading criteria:
  - (a) The purchaser's address identified in the seller's books and records provided it is not used in bad faith, or, if unavailable,
  - (b) The purchaser's billing address received by the seller at the time of sale provided it is not used in bad faith or similar address obtained at the time of sale,
  - (c) Cities reserve the right to ensure that the address that taxpayers are identifying as the location where the investigation, security and armored car services take place, are received or are first used are identifying the address in good faith.
- (5) Taxpayers who investigation, security and armored car services should document in their contracts, invoices or service agreements the location where they are sourcing gross income derived from the sale of such services.

## **Live Presentations**

### Sourcing gross income derived from sales of live presentations

- (1) Sales of live presentations are sourced to the location where the activity takes place. Generally, for gross income derived from sales of live presentations, the location where the activity takes place is the location from which the live presentation is coordinated or performed.
- (2) Sourcing gross income derived from different types of live presentations.
  - (a) In-person live presentations. Businesses will source gross income derived from in-person attended live presentations to the location where the presentation takes place.
  - (b) Remote live presentations. Businesses will source gross income derived from remote live presentations to the location where the presentation is coordinated or performed.
  - (c) Remote live presentations performed from multiple locations. Businesses will source gross income derived from presentations with presenters from multiple locations as follows:
    - (i) If the seller knows the locations where the presentations are coordinated or performed then the seller will source gross income derived from the sale of the live presentations to those known locations.
    - (ii) If the seller does not know the locations where the presentations are coordinated or performed then the seller will source gross income derived from the sale of the live presentations to the seller's location or, if unknown, to the seller's commercial domicile.

## **Sales of custom software and customization of prewritten software**

### Sourcing Gross Income Derived From Sales of Custom Software and Sales of Customized Software

- (1) For sales of custom software or customization of prewritten software, the location where the activity takes place is where the purchaser receives the service or the location where the purchaser can potentially make first use of the service.
- (2) If the seller and purchaser of custom software or customization of prewritten software know the locations of service, gross income derived from the sale of such services will be sourced to these known locations. Cities will accept proportional allocation to each known location based upon the amount of the service received at each location or equal proportional allocation to the known locations.
- (3) The seller of custom software or customization of prewritten software may agree with the purchaser to allocate the sale among multiple locations based on a reasonable and consistent method.
  - (a) If the purchaser will receive the custom software or customization of prewritten software in multiple locations, the seller and purchaser may allocate the sale to multiple locations based on a reasonable and consistent method.
  - (b) At the time the seller creates the invoice the purchaser must identify the locations and agreed-upon allocation. Cities reserve the right to review the reasonableness of the parties' allocation.
- (4) If the seller and the purchaser of custom software or customization of prewritten software do not know the location of the receipt of the services, the seller may source gross income derived from the sale of such services to an address based on the following cascading criteria:
  - (a) The purchaser's address identified in the seller's books and records, or, if unavailable,
  - (b) The purchaser's billing address received in the ordinary course of business or similar purchaser address obtained by the seller at the time of sale
  - (c) Cities reserve the right to ensure that the address that taxpayers are identifying as the location where the custom software or customization of prewritten software services take place, are received or are first used are identifying the address in good faith.
- (5) Taxpayers who provide custom software or customization of prewritten software services should document in their contracts, invoices or service agreements the location where they are sourcing gross income derived from the sale of such services.

## Temporary staffing services

### Sourcing gross income derived from temporary staffing services.

- (1) Gross income derived from sales of temporary staffing services is sourced to the location where the activity takes place. For gross income derived from sales of temporary staffing services, the location where the activity takes place is the location where the temporary workers perform their duties.
- (2) If the seller and purchaser of temporary staffing services know the location(s) where the temporary workers are performing their duties, gross income derived from the sale of temporary staffing services will be sourced to that/those location(s).
- (3) If temporary workers are performing their duties remotely (i.e., not at a business location of the taxpayer) and the seller and purchaser know the location where the temporary workers are performing their duties, then gross income derived from the sale of the temporary staffing services will be sourced to the remote location where the temporary workers are performing their duties.
  - (a) The seller of temporary staffing services may agree with the purchaser to allocate the sale among multiple locations based on a reasonable and consistent method.
    - (i) If the purchaser will receive the temporary staffing services at multiple locations, the seller and purchaser may allocate the sale to multiple locations based on a reasonable and consistent method.
    - (ii) At the time the seller creates the invoice the purchaser must identify the locations and agreed-upon allocation. Cities reserve the right to review the reasonableness of the parties' allocation.
  - (b) If the seller and the purchaser of temporary staffing services do not know the location of the receipt of the services, the seller may source gross income derived from the sale of such services to an address based on the following cascading criteria:
    - (i) The purchaser's address identified in the seller's books and records, or, if unavailable,
    - (ii) The purchaser's address obtained by the seller at the time of sale
  - (c) Cities reserve the right to ensure that the address that taxpayers are identifying as the location where the temporary staffing services take place is an address identified in good faith.
  - (d) If the sellers of temporary staffing services should document in their contracts, invoices or service agreements the location where they are sourcing gross income derived from the sale of such services.