

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3107.2021

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## Taxability of Credit Bureau Services

### Purpose

This excise tax advisory (ETA) explains the taxability and sourcing of credit bureau services, whether such services are transferred to the customer electronically or otherwise. "Sourcing" refers to the location (as in a local taxing district, jurisdiction, or authority) where the sale of these products is deemed to occur and is subject to retail sales tax.

### What is a credit bureau service?

"Credit bureau services" include the assembly or evaluation of information bearing on the credit worthiness of any individual for the purpose of furnishing such information to third parties. Credit bureau services are not limited to assembly or evaluation of information provided for the purpose of extending credit. Credit bureau services also include the assembly or evaluation of information provided to third parties who use such information to decide whether to accept a check or other form of payment, enter into a lease transaction, or make any decision where credit worthiness is a consideration.

### Taxation of credit bureau services

Under RCW 82.04.050(3)(b), sales of credit bureau services are retail sales. Therefore, they are subject to retail sales tax and the gross proceeds from those sales are subject to B&O tax under the retailing classification. A credit bureau service that is transferred electronically generally falls within the definition of a "digital good" or "digital automated service."<sup>1</sup> Sales of digital goods and digital automated services (digital products) are also retail sales.<sup>2</sup> Thus, whether a credit

<sup>1</sup> See RCW 82.04.192.

<sup>2</sup> RCW 82.04.050(8)(a).

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bureau service is transferred electronically, or through tangible media, such as paper, USB drive, or CD-ROM, the sale of the service is a retail sale.

There are also a number of retail sales tax exemptions that apply specifically to retail sales of digital goods and digital automated services.<sup>3</sup> If a credit bureau service transferred electronically qualifies for one of these retail sales tax exemptions, the gross proceeds of those sales are still subject to retailing B&O tax.

In some instances, credit bureau services transferred electronically may not fall within the definition of a digital good or a digital automated service because an exclusion from those definitions might apply.<sup>4</sup> In that event, the sale of the credit bureau service is still subject to retail sales tax and retailing B&O tax because, although the sale is not taxable as a digital good or digital automated service, it is still taxable as a sale of credit bureau services, which is defined as a retail sale under RCW 82.04.050(3)(b).

Generally, if retail sales tax is not collected by a seller on a retail sale, the buyer must pay use tax to the Department. When a credit bureau service is delivered by tangible media and retail sales tax is not collected by the seller, the buyer must pay deferred retail sales tax directly to the Department; use tax does not apply to purchases of credit bureau services delivered through tangible media.<sup>5</sup>

The gross proceeds from wholesale sales of credit bureau services, whether transferred electronically or via tangible media, are subject to B&O tax under the wholesaling classification. Sellers should obtain from buyers a copy of the buyer's reseller permit, a properly completed "Digital Products and Remote Access Software Exemption Certificate," or otherwise comply with RCW 82.04.470 to substantiate the wholesale nature of the sale.

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### **Sourcing of credit bureau services**

Retail sales, including sales of credit bureau services, are sourced in accordance with RCW 82.32.730(1), which provides a destination-based sourcing hierarchy. This sourcing hierarchy applies regardless of whether the credit bureau services are transferred electronically as digital products, or through tangible media.

In general, the sourcing hierarchy is as follows:<sup>6</sup>

- If the buyer receives the service at the seller's business location, then the sale is sourced to that business location.

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<sup>3</sup> Refer to WAC 458-20-15503 for more information about the available exemptions.

<sup>4</sup> See WAC 458-20-15503 for more information on these exclusions.

<sup>5</sup> See RCW 82.12.020.

<sup>6</sup> See RCW 82.32.730 for additional details.

- If the buyer does not receive the service at the seller’s business location, then the sale is sourced to the location where the buyer takes receipt of the service.
- If neither of the above applies, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business.
- If none of the above applies, the sale is sourced to an address for the purchaser obtained by the seller during the sale.
- If none of the above applies, the sale is sourced to the address from which the service was provided by the seller.

For sourcing purposes, the location where the buyer “receives” a service is the location where the buyer makes first use of the service.<sup>7</sup> With respect to digital goods, the location of first use is where the buyer takes possession or makes first use of the digital goods, whichever comes first.

The following sourcing examples identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

**Example 1:**

**Facts:**

- Customer purchases credit bureau services for purposes of employee screening from Acme Credit.
- The employees in question are located throughout the state.
- The services are transferred electronically to Customer. In particular, Customer accesses the services through computer workstations at Customer’s corporate headquarters in Seattle, WA.

**Result:**

- Customer receives the product at the Seattle, WA headquarters where it accesses, and thus, makes first use of the services.
- Under RCW 82.32.730(1)(b), the sale is sourced to Seattle where the product is received.

**Example 2:**

- **Facts:** Same facts as above, but the seller (Acme Credit) does not know where Customer will make first use of the service.

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<sup>7</sup> RCW 82.32.730(9)(f).

**Result:**

- If the seller does not know the location of receipt, the sale may be sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business.
- In this case, Acme Credit has a Tacoma address associated with Customer's accounts payable division. Under RCW 82.32.730(1)(c), the sale is sourced to Tacoma.

**Example 3:**

**Facts:**

- Customer purchases a credit report for purposes of tenant screening from Bravo Screening, Inc.
- Customer is located in Yakima, WA.
- The credit report is delivered in a paper format.
- Customer receives the report at its place of business in Yakima.

**Result:**

- Under RCW 82.32.730(1)(b), the sale is sourced to Yakima where the product is received.

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**Credit rating agencies**

Services provided by a credit rating agency are not credit bureau services. A credit rating agency is a business that evaluates the credit worthiness of other business entities or debt instruments. Credit rating agencies are registered with the U.S. Securities and Exchange Commission, as nationally recognized statistical rating organizations.

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