

[EXTERNAL] Comments on Proposed Action on Proposed Rules Regarding Gross Receipts Tax at 3.1.4.13 and 3.2.213.13 NMAC

Stephanie Parks <Stephanie.Parks@Andersen.com>

Thu 11/9/2023 3:31 PM

To: Office, Policy, TAX <policy.office@tax.nm.gov>

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hello,

As a follow up to the public hearing this morning, I respectfully submit the following comments and requests for revision to the Proposed Rules Regarding Gross Receipts Tax at 3.1.4.13 and 3.2.213.13 NMAC ("Proposed Rules").

Determining Reporting Location

The proposed example in 3.1.4.13(C)(5)(e)(v) NMAC states that 3.1.4.13(C)(5)(e) NMAC applies to determine the reporting location of digital advertising services. Other than the proposed example, there are no proposed amendments to 3.1.4.13(C) NMAC explaining how the reporting location for digital advertising services is determined. Please include the reporting location for digital advertising services in the proposed amendments to 3.1.4.13(C) NMAC and the basis for the application of 3.1.4.13(C)(5) NMAC.

The proposed example in 3.1.4.13(C)(5)(e)(v) NMAC concludes that the reporting location is the location of Company X (the provider of the digital advertising service) because Company X's location is the "location from which the product of the digital advertising service was transmitted to the purchaser." A taxpayer may have several physical locations (e.g., offices, retail outlets, warehouses, data centers, distribution centers, laboratories, etc.) with some locations within and without New Mexico. Presumably not all of these locations qualify as a "seller's location" under 3.1.4.13(A)(5) NMAC because not all of the locations would be used by Company X for the designated activity of transmitting the product of the digital advertising service. Please expand the proposed example so that Company X has more than one location (including offices, retail stores, and leased or owned space at a data center) in order to illustrate how Company X determines which of its locations is the "location from which the product of the digital advertising service is transmitted to the purchaser."

Product of Digital Advertising Service

While 3.1.4.13(C)(9)(e)(i) NMAC identifies the product of an advertising service, the proposed amendments do not define or specify the product of a digital advertising service. Please identify the product of a digital advertising service in the Proposed Rules.

Thank you for your consideration. If you have any questions or would like to discuss the above comments, please feel free to reach out to me at via email or phone.

Warm regards,
Stephanie

Stephanie Parks
Director

Andersen

1200 Fifth Avenue, Suite 1600

Seattle, WA 98101

Stephanie.Parks@Andersen.com

(Cell) 206.261.7003

(Fax) 206.926.8363

Andersen.com

-

[Andersen Tax is now Andersen](#)

[../..../chung/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/309EL62Y/linkedin.com/com

pany/andersenus]

[../..../chung/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/309EL62Y/Twitter.com/Ande

rsen_US]

This E-mail is confidential. It may also be legally privileged. If you are not the addressee you may not copy, forward, disclose or use any part of it. If you have received this message in error, please delete it and all copies from your system and notify the sender immediately by return E-mail. Internet communications cannot be guaranteed to be timely, secure, error or virus-free. The sender does not accept liability for any errors or omissions.
