



ADMINISTRATIVE RULES OF MONTANA

42.26.255 SALES OF TANGIBLE PERSONAL PROPERTY

- (1) Gross receipts from the sales of tangible personal property (except sales to the United States government as outlined in ARM 42.26.256) are in this state:
 - (a) if the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale; or
 - (b) if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.
- (2) Property shall be deemed to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.
- (3) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.
- (4) The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.
- (5) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this state, the sales are in this state.
- (6) If the taxpayer is not taxable in the state of the purchaser, the sale is attributed to this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state.
- (7) For taxable years beginning before January 1, 2018, if a taxpayer whose salesperson operates from an office located in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply:
 - (a) If the taxpayer is taxable in the state from which the third party ships the property, then the sale is in such state.
 - (b) If the taxpayer is not taxable in the state from which the property is shipped, then the sale is in this state.
- (8) For taxable years beginning after December 31, 2017, for purposes of determining whether receipts are in Montana and included in the numerator of the receipts factor, if the activities of any member of a unitary group exceeds the activity protected under P.L. 86-272 then sales of tangible personal property into Montana, from an out-of-state location, by any member of the unitary group, shall be included in Montana's receipts factor numerator.

- (9) For taxable years beginning after December 31, 2017, if any member of a unitary group is taxable in another state, sales of tangible personal property from a Montana location into that state by any member of the unitary group shall not be included in Montana's receipts factor numerator.
- (10) For taxable years beginning after December 31, 2017, if no member of a unitary group is taxable in another state, sales of tangible personal property from a Montana location into that state by any member of the unitary group shall be included in Montana's receipts factor numerator.

Authorizing statute(s): 15-1-201, 15-31-313, 15-31-501, MCA

Implementing statute(s): 15-1-601, 15-31-305, 15-31-310, 15-31-311, MCA

History: NEW, Eff. 1/2/77; AMD, 1979 MAR p. 1691, Eff. 12/28/79; AMD, 2001 MAR p. 2469, Eff. 12/21/01; AMD, 2011 MAR p. 2053, Eff. 9/23/11; AMD, 2017 MAR p. 2328, Eff. 1/1/18.