

Regulatory Analysis
LSA Document #24-432

I. Description of Rule**a. History and Background of the Rule –**

[45 IAC 3.1-1-55.5](#) is being added due to legislative changes in 2019 (P.L.158-2019, SEC.7) that changed the attribution of most receipts from services and intangibles from a cost of performance basis. The rule will provide certainty to businesses regarding Indiana's treatment of most services and intangible transactions, and to simplify the determination of whether receipts are sourced to Indiana or elsewhere. The rule provides guidance for how Indiana will treat transactions, as well as when the department has varied from the Multistate Tax Commission regulations. Further, this rule provides benefits to businesses and the department by minimizing the scope of disputes regarding sourcing methodology and the location of receipts.

b. Scope of the Rule –

This is a complete repeal of [45 IAC 3.1-1-55](#) and adding a new rule [45 IAC 3.1-1-55.5](#). This is being done because the previous rule covered a different apportionment methodology than the current statutory regime.

c. Statement of Need –

The rule is intended to address a 2019 statutory change (See *P.L. 158-2019, SEC.7* regarding [IC 6-3-2-2](#)) that rendered the previous version of the rule obsolete and largely erroneous as a matter of law.

d. Statutory Authority for the Proposed Rule –

In addition to general authority for the department to issue the proposed rule under [IC 4-22](#), [IC 6-3-2-2](#)(v) grants the department to issue rules subject to the constraints that any rules are consistent with Multistate Tax Commission rules and other provisions that may conflict with [IC 6-3-2-2](#).

e. Fees, Fines, and Civil Penalties – Indicate whether the rule adds or increases any fees, fines, or civil penalties and needs to follow the additional steps in [IC 4-22-2-19.6](#).

N/A

II. Fiscal Impact Analysis**a. Anticipated Effective Date of the Rule**

This is anticipated to be in effect January 1, 2024. If that is not possible, then the rule would be in effect for early 2024.

b. Estimated Fiscal Impact on State and Local Government –

This rule is not anticipated to have any impact on state revenues beyond those that have already occurred with statutory change. There is no local government effect.

III. Impacted Parties

It is expected that all parties that would be affected by the rule are already in compliance with the rule.

IV. Changes in Proposed Rule

This is a complete removal of the previous version of [45 IAC 3.1-1-55](#) and replacement with [45 IAC 3.1-1-55.5](#) incorporating the text of the 2019 emergency rule, LSA Doc. 19-688 as provided for in *P.L. 158-2019, SEC.7*, with conforming edits to reflect a different format. In addition, the underlying Multistate Tax Commission regulations are available at <https://www.mtc.gov/uniformity/adopted-uniformity-recommendations/>.

V. Benefit Analysis

The benefits of the rule are to provide certainty to businesses regarding Indiana's treatment of most services and intangible transactions and to simplify the determination of whether receipts are sourced to Indiana or elsewhere. These rules provide guidance for how Indiana will treat transactions as well as when the department has varied from the Multistate Tax Commission regulations. Further, this provides the benefit to businesses and the department of minimizing the scope of disputes regarding sourcing methodology and the location(s) of receipts.

VI. Cost Analysis

Beyond costs that have been incurred because of the 2019 statutory changes (See *P.L. 158-2019, SEC. 7* regarding [IC 6-3-2-2](#)), there is expected to be no or very minimal costs for compliance. This regulation is not expected to have an impact on entry into or exit from Indiana.

VII. Sources of Information

N/A

VIII. Regulatory Analysis

The benefits of this regulation, beyond tax revenues that have already been sourced to Indiana, are not readily quantifiable. The costs of this regulation are expected to be zero or near zero, mostly because any costs have already occurred because of compliance with the 2019 statutory changes and prior emergency rule.

IX. Contact Information of Staff to Answer Substantive Questions

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Notice of First Public Comment Period with Proposed Rule: [20241113-IR-045240432FNA](#)

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