



TAXING ISSUES

WYOMING DEPARTMENT OF REVENUE

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Excise Tax Division

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Excise Tax Division Newsletter
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This publication is not an "official taxability ruling." It contains general information. Your specific facts must be reviewed in detail before we can make official taxability rulings. Please direct your written inquiries for such rulings to Robert Tompkins at the address listed above. Be sure to include all pertinent facts in your inquiry. Or if you prefer, e-mail your inquiry to:

rtompk@state.wy.us

We will respond with written guidance for your particular business transactions.

Legislative Summary: The Budget Session of the 57th Wyoming Legislature adjourned on March 5,

2004. For sales/use tax purposes two new exemptions became law.

House Bill 44 (Enrolled Act 20) – Effective July 1, 2004

This new law provides for a sales/use tax exemption for machinery and machine tools used in manufacturing. It exempts from sales/use tax until December 31, 2010 "the sale or lease of machinery to be used in this state directly and predominantly in manufacturing tangible personal property, if the sale or lease:

- (I) Is to a manufacturer classified by the department under the NAICS code manufacturing sector 31-33;
- (II) Does not include noncapitalized machinery except machinery expensed in accordance with section 179 of the Internal Revenue Code; and
- (III) Is completed in the case of a sale, or executed in the case of a lease, on or after July 1, 2004."

It joins existing ingredient/component and power/fuel exemptions benefiting the manufacturing sector. It also requires the Wyoming Business Council and the Department of Revenue to report annually to the legislature the "...cumulative effects of the exemption from initiation..." Said report is to include:

- "(i) a history of employment in terms of numbers of employees, full-time and part-time employees, and rate of turnover;
- (ii) A history of wages and benefits disaggregated by gender for each job category;
- (iii) A comprehensive history of taxes paid to the state of Wyoming."

Evidence of NAICS code eligibility and data reporting is required for those claiming this exemption. We

are working with the Wyoming Business Council and the Wyoming Manufacturing Association to provide educational seminars for the manufacturing sector in the second quarter of 2004. If you are interested in attending such a seminar, contact Robert Tompkins by telephone at (307)777-5200 or by e-mail at: rtompk@state.wy.us

House Bill 73 (Enrolled Act 38) – Effective July 1, 2004

This new sales tax exemption states: "The cost of food or meals furnished by a food establishment licensed under W.S. 35-7-124 without charge to an employee for consumption on the premises is not taxable either to the establishment or the employee."

New Rules Promulgated: On January 12, 2004 new sales/use tax rules were promulgated and effective. Find our new rules on our web site at: <http://revenue.state.wy.us>

At the left margin click on "Statutes and Rules." From the screen that appears click on "Chapt. 2 Rules and Regulations."

4/1/04 Laramie County Tax Rate Change: Effective April 1, 2004 the sales/use tax rate for Laramie County increases from five percent (5%) to six percent (6%). In December 2003 in *Taxing Issues* we provided notice of this change and a copy of the new tax rate chart. You can also download a copy from our web site at:

<http://revenue.state.wy.us>

At the left margin click on "What's New?" In the screen that appears go to the gray scale banner entitled "Sales & Use Tax."

Tax Bulletins & Tax Publications: Bulletins are designed to address a

single issue or narrowly focused areas of taxability. Bulletins differ from Publications. The latter focuses on multiple issues impacting a specific industry.

Find Bulletins and Publications on our web site at: <http://revenue.state.wy.us> At the left margin place your pointer on "Departmental Divisions." Click on "Excise Division." Scroll to the dark gray scale banner entitled "Maps, Calendars, Publications."

A Message to Wyoming Tobacco

Retailers: The Office of the Attorney General in Wyoming maintains an important directory on its web site. Find the directory at: <http://attorneygeneral.state.wy.us>

It is entitled "Wyoming's Directory of Certified Product Manufacturers Their Brands and Brand Families." The directory lists tobacco product manufacturers that have met the state's certification requirements to have the company and its brand or brands and brand styles listed as legal to be sold in the state.

W.S. 9-4-1205(k) states, "...no person shall sell, offer for sale, or possess for sale in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory."

Wholesalers and retailers are responsible to access the directory to check on the legality of a specific brand(s) to be sold in Wyoming. The directory is updated regularly. Wholesalers and retailers can also call the Tobacco Settlement Unit with their questions and concerns. The significance of the annual release date of the directory is that tobacco product manufacturers are required to certify with the state each year by April 30. Those in compliance by April 30 are listed in the June 1 release of the directory. The current first edition of the directory is valid through May 30, 2004, with regular updates occurring

until that time. The second edition will be online June 1, 2004.

Caution: There are manufacturers in the current edition of the directory that will not be in the June 1, 2004 release. **There is no sell-down time provision in the law for wholesalers or retailers.** The directory is the official source of legal cigarettes and roll-your-own to be sold in the state. In the event of de-listings during any edition of the directory, a courtesy notice will be sent to wholesalers giving an effective date of the de-listing. **Any brand not listed in the directory is illegal to be sold and can be confiscated as contraband and destroyed.**

Please direct your questions and requests for additional information to Carolyn A. Teter, Administrator, Tobacco Settlement Unit. You can do so by telephone at (307)777-5833 or by e-mail at: cteter1@state.wy.us

Sales of Mopeds, Motorcycles and Off-Road Recreational Vehicles:

Wyoming law requires **vendors** to collect and remit sales tax on sales of mopeds, motorcycles and off-road recreational vehicles. W.S. 39-15-107(b)(viii). Wyoming law requires county treasurers to collect and remit sales tax on sales of motor vehicles, house trailers, trailer coaches, trailers and semitrailers. W.S. 39-15-107(b)(i). Thus, when a Wyoming vendor sells a motorcycle in Wyoming to a nonresident purchaser, the vendor must collect and remit Wyoming sales tax based on the county rate where the sale occurs. For the sale to be subject to another state's laws the vendor must make a delivery of the motorcycle to the purchaser outside of Wyoming.

Wholesale transportation or freight charges associated with delivery of a motorcycle from a manufacturer to a Wyoming dealer become part of the taxable sales price of the motorcycle. **Retail** transportation or freight charges

associated with the delivery of a motorcycle from a dealer to their customer are sales tax exempt. This delivery when separately stated on an invoice, is excluded from the sales price of the motorcycle. *Wy Dept of Rev Rules, Chap 2, Sections 7(h) and 9(a).*

Requirements for Written

Correspondence: Some handwritten correspondence that we receive is illegible. Even legible correspondence often lacks license numbers or revenue identification numbers. It really speeds up our response time when we receive legible correspondence, license numbers and revenue identification numbers with your correspondence.

Federal Tax Inquiries: If you have federal tax questions you have several options for assistance: Electronically at www.irs.gov, telephone toll free 1-800-829-1040, or telephone Maura Morgan, Wyoming Tax Specialist at (307)633-0919.

Field Offices: The area code prefix is 307 for all of our field offices.

Casper	266-3621
Cheyenne	777-7967
Gillette	682-6061
Lander	332-3370
Laramie	742-4207
Powell	754-2686
Rock Springs	382-4531
Sheridan	674-8559
Thayne	883-2934
Torrington	532-5566