



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. 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 or fax number listed above. Be sure to include all pertinent facts in your inquiry. Or e-mail your inquiry

to:
Robert.Tompkins@wy.gov

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

Legislative Summary: The General Session of the 58th Wyoming Legislature adjourned on March 3, 2005. The following is a list of sales/use tax related legislation passed by the legislature and signed into law by Governor Freudenthal. For text of new laws on the web please go to: <http://legisweb.state.wy.us>

House Bill 14 (Enrolled Act 3) – Effective February 15, 2005

This law incorporates requirements of the Streamlined Sales Tax Project (SSTP). Highlights of the law include the benefits of voluntary licensing per SSTP, new definitions, expanded bad debt procedures and elimination of a conflict in law related to when tax rates change.

House Bill 24 (Enrolled Act 76) – Effective July 1, 2005

This law amends aircraft related sales/use tax exemptions at W.S. 39-15-105(a)(viii)(J) and W.S. 39-16-105(a)(viii)(B). Succinctly, exempt aircraft repairs are listed separately from exempt aircraft sales and leases. The new language also expands sales and lease exemptions to “aircraft used in a federal aviation administration commercial operation.” Previously, this exemption for sales and leases of aircraft was limited to “aircraft used in a scheduled interstate federal aviation administration air carrier operation.”

House Bill 27 (Enrolled Act 8) – Effective July 1, 2005

This law repeals a date limitation for the distribution of certain cigarette taxes to the state general fund.

House Bill 93 (Enrolled Act 116) – Effective July 1, 2005

This law marks the return of a sales tax exemption for specified services performed on railroad rolling stock. Previously, in 2000 the legislature repealed this exemption. Consistent with its previous text, the law exempts “Sales of tangible personal property or services performed for the repair, assembly, alteration or improvement of railroad rolling stock.”

House Bill 96 (Enrolled Act 45) – Effective July 1, 2005

This law expands the definition of “Wholesaler” for cigarette tax purposes. The law also contains new definitions for “Cigarette importer” and “Cigarette manufacturer.” Lastly, the law strengthens tobacco tax provisions related to licensing and enforcement.

House Bill 232 (Enrolled Act 124) – Effective July 1, 2005

This new law authorizes local governments to: (1) Use a portion of general purpose excise tax for economic development purposes; or (2) Impose an additional excise tax for economic development purposes.

Senate File 5 (Enrolled Act 10) – Effective February 17, 2005

This new law corrected an error in sales and use tax definitions for the North American Industry Classification System (NAICS). The NAICS definitions now properly refer to the 2002 manual.

Senate File 67 (Enrolled Act 35) – Effective July 1, 2005

This law amends local sales/use tax statutes related to specific purpose excise taxes. It authorizes county treasurers, in consultation with the Department of Revenue, to estimate future tax receipts. This estimate will determine the shut-off date for the tax to minimize excess collection.

Tax Rate Changes:

Past: Effective January 1, 2005 the sales/use tax rates decreased to 4% for both Goshen and Park counties.

Present: Effective April 1, 2005 the sales/use tax rates increase to 6% for Crook County and to 5% for both Goshen and Washakie counties. Also effective April 1, 2005 the lodging tax rates for Hot Springs and Weston counties and the City of Sheridan in Sheridan County increase to 4%.

Future: Pursuant to W.S. 39-15-207(c) and W.S. 39-16-207(c) notice is given of a future tax rate change. The 2% lodging tax rate is repealed for the City of Gillette in Campbell County effective July 1, 2005.

Exempt Sales of Livestock & Feeds for Livestock for Marketing

Purposes: Although sales/use tax exemptions exist for sales of “livestock,” the word “livestock” is not defined in either our sales or use tax statutes. A general administrative statute at W.S. 39-11-101(a)(x) in listing some animals, also states, that the definition includes “... all other animals commonly thought of as livestock.” Our rules definition of “livestock” adds more animals to the list, but also states that the list is not all inclusive. [Wy Dept of Rev Rules, Chap 2, Sec. 3(w)]

Given these broad definitions of “livestock” we are administering the word “livestock” to include any living animal. Thus, the retail sale of any living animal qualifies for sales/use tax exemption as “livestock.” W.S. 39-15-105(a)(iii)(B) and W.S. 39-16-105(a)(iii)(B). Vendors: This change is effective April 1, 2005.

In making this change we considered historical information in the department’s handling of this issue. We also factored in the nontaxable treatment of veterinary services and dog grooming services in our statutes. The result of this change is to align the taxability of retail livestock sales with veterinary services and the animal services sector.

Another aspect of the “livestock” exemption concerns the sale of feeds for livestock for “marketing purposes.” The words “marketing purposes” are not defined in either our statutes or rules. We consider legitimate marketing purposes to include livestock raised for slaughter, wool production, resale, show and breeding. These examples stand in contrast to livestock kept as pets. Feed sales to pet owners remain subject to sales tax. [W.S. 39-15-103(a)(i)(A)] Please direct your questions to us at 307-777-3745.

Tax Education Publications: We have added two (2) new tax publications to our website. The new publications concern Taxidermy and Photography. Click on “Publications” in the red banner for copies. Scroll to the grey scale heading “Sales and Use Tax Materials” and click on the subcategory “Sales & Use Tax Publications for Specific Industries.” If you do not have access to our website, please contact our field office near you or our administrative office in Cheyenne. We will provide you a copy of the publication(s) you need.

Filing the Correct Return: Some vendors are erroneously downloading Form 17 on our website and using it instead of Forms 10 or 11. The Form 17 is for use by vendors making sales in Wyoming resort districts only. A resort district is a smaller geographical area within a county in Wyoming. Currently only one (1) such district exists in Wyoming. This district is Teton Village, within Teton County. Use of the form 17 by vendors who should be using a Form 10 or 11 will result in a rejected return. The reason Forms 10 and 11 are not available on our website is because of the unique bar coding that is required for these returns.

Sales of Single Cigarettes Are Contraband:

Since single cigarettes do not bear proper stamps, imprints or impressions they are contraband and illegal for sale. Such sales are misdemeanors and punishable by a fine, imprisonment or both. [W.S. 39-18-108(C)(ii)]

Tax Education Seminars: We conduct tax education seminars in Wyoming upon request. To request a seminar, please submit to us a completed “Seminar Request Form.” For this form go to our website’s main page and click on “Forms” in the red banner. On the page that appears go to “Excise” and click on “Taxpayer Education Forms.” In the drop down menu click on “Seminar Request Form (ETS Form 126).”

Notice of upcoming seminars will be posted under the “What’s New?” section of our website’s main page. Our seminars are tailored to fit our audience. We encourage questions! PowerPoint presentations are often a component of our seminars.

Wyoming Excise Tax Division Field Offices:

Casper	307-266-3621
Cheyenne	307-777-5211
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Sheridan	307-674-8559
Thayne	307-883-2934
Torrington	307-532-5566