

Excise Tax Division Newsletter
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Noteworthy Quote: "Words are of no account if not accompanied by deeds."
- Theodore Roosevelt

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. Or e-mail your inquiry to: Robert.Tompkins@wy.gov Please be sure to include all pertinent facts in your inquiry. We will respond with written guidance for your particular business transactions.

Legislative Summary: The Budget Session of the 58th Wyoming Legislature adjourned on March 11, 2006. One of this session's significant events was the legislature's passage of temporary sales and use tax exemptions for "food for domestic home consumption." The unique aspect of this new law is that it was included in the legislature's budget bill. [House Bill 1 (Enrolled Act 11), See heading "Consumer Tax Relief" for Section 325 on page 73] This new law and those to follow are available online at: <http://legisweb.state.wy.us>

These temporary sales and use tax exemptions for food for domestic home consumption commence on July 1, 2006 and end on June 30, 2008. This new law tasks our agency with defining in our rules the meaning of "food for domestic home consumption." Given our agency's participation in the Streamlined Sales Tax Project, we have drafted proposed rules based on various definitions in the "Food and Food Products" category of the latest project agreement. The agreement is available online at: <http://StreamlinedSalesTax.org/agreement.htm> Click on "Final Agreement – Amended 01-13-06" A 104 page PDF-formatted document will pop up. "Food and Food Products" are defined on pages 92-94 of the document. (Please note that the cover page is unnumbered so the hard copy pages are numbered 91-93).

For a copy of our proposed rules for food for domestic home consumption please go to our website's main page at: <http://revenue.state.wy.us>

On our main page we have created a link to our proposed rules. In addition, this link provides you an opportunity to submit questions for us to answer. We will post our answers to your questions on our website for the benefit of all food vendors and other interested parties.

Our proposed rules for food for domestic home consumption will be of interest to all vendors who are retailers of food. This would include, but is not limited to: grocery stores, convenience stores, restaurants, concessionaires and those engaged in catering.

Lastly, these new food exemptions apply to both the state sales and use tax rates of four percent (4%) as well as to any local option taxes in place among Wyoming's twenty-three (23) counties. Next up, other new sales and use tax related laws that have been signed into law by Governor Freudenthal, except as indicated otherwise.

House Bill 31 (Enrolled Act 26)
As of March 17, 2006 this bill was pending action by Governor Freudenthal. If this bill becomes law it is effective July 1, 2006. This bill seeks to exempt from Wyoming sales tax "the deepening or extending of any well

previously drilled for oil or gas beyond the maximum point to which they were initially drilled.”

House Bill 61 (Enrolled Act 5) – Effective March 9, 2006: This law creates sales and use tax exemptions for sales of equipment used to construct a new coal gasification or coal liquefaction facility. These *exemptions are limited* to acquisition of equipment used in a project to make it operational. These *exemptions do not apply to:* 1) tools and other equipment used in the construction of a new facility, 2) contracted services required for construction, 3) routine maintenance activities, and 4) equipment utilized or acquired after the facility is operational.

House Bill 64 (Enrolled Act 28) – Effective July 1, 2006: This law exempts from sales tax intrastate transportation of passengers by a government, charitable or nonprofit organization.

House Bill 98 (Enrolled Act 6) – Effective January 1, 2008: This law amends the sales and use tax statutory definitions of a “Sale” by removing “title” transfers. It also incorporates into statute the Streamlined Sales and Use Tax Agreement sourcing provisions for sales and leases. Lastly, this law changes the timing of the statute of limitations related to bad debt refunds.

Tax Rate Changes:

Past: There were no sales, use or lodging tax rate changes for the tax return quarter beginning January 1, 2006.

Present: Effective with the tax return quarter beginning April 1, 2006 the sales/use tax rate for Sweetwater County increases from 5% to 6%. Find this tax rate chart on our website. Click on “Publications” in the red banner. Scroll to “Sales and Use Tax Materials” followed by a click on “Sales and Use Tax Rates.”

Future: There are no sales, use or lodging tax rate changes for the tax return quarter beginning July 1, 2006.

Exemption Certificate Information: Please note that we have updated our web site with the latest version of the exemption certificate approved by the Streamlined Sales Tax Agreement. The current version in the lower left corner indicates it was revised 1/06. Vendors do not need to replace existing exemption certificates with this latest version. Vendors do, however, need to make use of this version of the exemption certificate prospectively.

Please note that use of the ETS Form 101 Exemption Certificate is nearing its end. Effective July 1, 2006 vendors and purchasers must only use the exemption certificate approved by the Streamlined Sales Tax Agreement. Until then you can find both exemption certificates on our web site. Click on “Forms” in the red banner. Scroll to the heading “Excise” and click on “Exemption/Power of Attorney Forms.”

Sourcing Sales and Leases: On December 16, 2005 the Honorable Edward L. Grant, District Court Judge, First Judicial District ruled that our sourcing rules for sales and leases “exceed their statutory authority and are illegal and invalid.” [Woodworker’s Supply, Inc. v. State of Wyoming Department of Revenue, Docket No. 164-739] Per Judge Grant’s order we are not enforcing Section 5 of our rules,

retroactively, currently or prospectively. Please note that a portion of **House Bill 98 (Enrolled Act 6)** incorporates into statute the same sourcing provisions that Judge Grant invalidated. By doing so, the legislature cured the legality and validity issues cited in Judge Grant’s order. **But remember, that law does not take effect until January 1, 2008.** How should you source sales and leases in the interim? Consistent with Judge Grant’s order, source your retail sales and leases of tangible personal property based on where title or possession transfers. [W.S. § 39-15-101(a)(vii)]

Revised Agriculture Tax Publication: This publication was revised effective March 14, 2006. Want a copy? Click on “Publications” in the red banner of our web site’s main page. Scroll to the heading “Sales and Use Tax Materials.” Follow that with a click on “Sales & Use Tax Publications for Specific Industries.”

Vendor Education: Check out the “What’s New?” section of our web site’s main page for a list of our division’s scheduled seminars. To register for any of our listed seminars please contact Shanda Palochak at (307)777-7615 or by e-mail at: Shanda.Palochak@wy.gov

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