



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 the department at the address or fax number listed above. Or e-mail your inquiry to: dor_taxability@wyo.gov Please be sure to include all pertinent facts in your inquiry. We will respond with written guidance for your particular business transactions.

Tax Rate Changes:

Present:

Effective with the tax return quarter beginning April 1, 2014 there will be no sales, use or lodging tax rate changes.

Future:

Future Tax Rate Changes:

Pursuant to W.S. 39-15-207(c) and 39-16-207(c) notice is given of the following future tax rate changes.

The Department is not aware of any sales, use or lodging tax rate changes for the tax return quarter beginning July 1, 2014.

It is prudent to periodically check our website for notices of tax rate changes. It is possible that there will be rate changes effective July 1, 2014 that the department has not been notified of to date. You can access our tax rate charts on line at <http://revenue.wyo.gov> from the Home page, find the Excise (Sales & Use Tax) Division, click on "Publications" click on Sales & Use Tax Rate Charts. We also have a Zip Code Directory which combines a listing of all zip codes in Wyoming with the associated sales tax rates. This document is in an Excel format.

Please Note: Sales tax rate charts are only updated as rate changes occur.

Legislative Update:

The 2014 Budget Session of the Wyoming Legislature adjourned March 6, 2014. For sales and use tax purposes two new bills became law.

House Bill 0145 (Enrolled Act No. 32) Effective July 1, 2014

This bill adds to the current use tax statute imposing tax on the storing, using or consuming tangible personal property, or specified digital products in Wyoming. The new language includes making first use of taxable services. This bill clarifies that when a taxable service is provided in another state, and the purchaser receives the taxable service in Wyoming, it is subject to Wyoming use tax (both the labor and materials used in the service). This law is effective July 1, 2014.

Case in point; A Wyoming customer ships their vacuum cleaner to a Montana business for repairs. The Montana business repairs the vacuum

and ships it back to their customer in Wyoming. This repair is a taxable service and since the Wyoming customer received first use of the service in Wyoming the repair is subject to Wyoming use tax based on the rate in effect in the county in which the customer received the repaired item. The amount subject to use tax includes both the labor (service) and any materials (parts) used in the repair.

Please see below for further discussion on the changes in sourcing of taxable service.

House Bill 0154 (Enrolled Act No. 52) Effective July 1, 2014

This new law exempts from sales tax gratuities and tips which are offered to tipped employees as specified in W. S. 27-4-202(b) whether offered by the consumer or separately invoiced by the seller. W.S. 27-4-202(b) states: "Effective April 1, 2001 and thereafter, all employers who employ tipped employees shall not pay less than two dollars and thirteen cents (\$2.13) per hour to his tipped employees. Provided further, if the wage paid by the employer combined with the tips received by the employee during a given pay period does not equal at least the applicable minimum wage as prescribed in subsection (a) of this section, the employer shall pay the difference to the tipped employee. For the purposes of this act, all "tip" employees shall furnish monthly to their respective employers the daily record of tips required to be kept by "tip" employees under the laws of the United States and upon the forms prescribed by the internal revenue service of the United States treasury department. The daily record of tips shall constitute prima facie proof of the amount of tips received by the employee. Proof of a customary tipping percentage of sales or services shall also be an admissible form of

proof of the amount of tips. A “tip” employee is one who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips.”

Change in Sourcing of Taxable Services Effective July 1, 2014:

Before discussing the sourcing changes, it is important to understand what a service is. A service is labor; i.e. performing an activity which is charged for on an invoice with or without a material component.

Currently (prior to July 1, 2014) Wyoming administers the sourcing of services/labor to be based on the tax rate in effect at the location the service is performed.

At the beginning of February 2014 every licensed vendor was mailed a policy statement from the Department, concerning a change in the sourcing of taxable services.

This change will only apply to taxable services and does not change what services are taxed. Services that are currently taxed in Wyoming are services which repair, alter, or improve tangible personal property, intrastate telecommunication services, intrastate transportation of passengers, lodging services to transient guests, and certain oil and gas services performed within an oil or gas well site. Effective July 1, 2014 the sourcing of taxable services will be determined by where the customer makes first use of the service after it is rendered. To highlight the changes we provide the following examples: Please note: all examples are offered to demonstrate the sourcing of sales tax on taxable services effective July 1, 2014.

Example 1: A customer takes their computer to a computer repair shop in Gillette, WY (Campbell County) to have a virus removed. Once the computer is fixed the customer picks up the computer at the repair shop. The proper tax rate to be charged on the taxable service is the current sales

tax rate in effect at the time service is performed in Campbell County, as that is where the customer makes first use of the taxable service. Conveniently, the location where the customer receives first use of the service is the same location where the service was rendered. However this will not always be the case, as presented in the following examples.

Example 2: A customer located in Cheyenne, WY (Laramie County) ships their game animal to a taxidermist for mounting, in Sheridan, WY (Sheridan County). The taxidermist completes the service and then ships the trophy back to the customer in Cheyenne (Laramie County). The sales tax will be sourced (based) on where the customer receives first use of the service, i.e. Laramie County.

Example 3: A customer located outside the State of Wyoming, ships a piece of equipment to a vendor in Wyoming for repair. The Wyoming vendor repairs the equipment and ships it back to the customer located in another state. The Wyoming vendor would not charge Wyoming sales tax on the repair service as the customer makes first use of the repair in another state.

Example 4: A Wyoming vendor ships a printer to a repair shop located in South Dakota. If the South Dakota vendor is licensed to collect Wyoming sales tax, the vendor would collect Wyoming sales tax based on the current rate in effect in the Wyoming County where the customer receives first use of the repaired printer. If the South Dakota vendor is not a Wyoming licensed vendor then he would not be permitted to collect Wyoming tax. In this instance the Wyoming customer would be responsible to self-assess and remit the use tax to the Department based on the tax rate in effect in the county in which they received the repaired item. The taxable base would include both

labor (service) and materials (parts) used in the repair.

To determine the proper tax rate to be charged/remitted you must identify the county in which your customer is located. To assist you in determining this we have several documents available on our web site at <http://revenue.wyo.gov> For a complete listing of all Wyoming Cities and the Counties in which they are located, please review our “Sales and Use Tax Rates by Zip Code”. From the home page of our web site locate the “Excise (Sales & Use) Tax Division,” click on “Publications” and select “Sales & Use Tax Rate Charts.” The current and past county rate charts are also available on this page. If there has not been any rate changes then the most recently dated rate chart is still the current chart. Our jurisdiction table is also available on our website under “Forms,” followed by a click on “Sales and Use Tax Returns,” then select “Sales and Use Tax Jurisdiction Table.”

Educational Seminars:

The Department has scheduled sales and use tax seminars for 2014. Please view our web site at <http://revenue.wyo.gov> under the “What’s New Column on the home page for specific seminar locations, seminar topics, dates and times.

We will hold seminars in Cheyenne May 14th and 15th. We will be in Gillette conducting seminars June 24th and 25th, Casper June 26th and 27th. We will be in Jackson July 16th conducting seminars, and Cody August 12th. We will be in Sheridan August 13th. On September 16th we will conduct seminars in Riverton and September 17th and 18th in Rock Springs.

If you would like to attend any of these seminars please contact the Education & Taxability Section at dor_taxability@wyo.gov with your name, company, e-mail address, mailing address and phone number along with information on the seminar you are interested in attending and we will ensure you are registered to attend.