

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.

New Director of the Department of Revenue:

Effective July 1, 2013 Dan Noble will assume the duties of the Director of the Department of Revenue. For the past thirteen years Mr. Noble was the Administrator of the Excise Tax Division. Mr. Noble is taking over the Director position from Mr. Edmund Schmidt who is

retiring effective July 1, 2013. Congratulations to both Mr. Noble and Mr. Schmidt on their new endeavors.

Tax Rate Changes:

Present:

Effective with the tax return quarter beginning July 1, 2013 there will be the following sales, use and lodging tax rate changes in Wyoming.

- The voters of Washakie County defeated the 1% General Purpose Option Tax continuation in the November 2012 election. Therefore effective July 1, 2013 the sales, use tax rate in Washakie County will decrease to 5%.
- Effective July 1, 2013 the combine sales, use and lodging tax rate for Washakie County will be 9%.

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.

Effective with the tax return quarter beginning October 1, 2013 there will be the following sales, use and lodging tax rate changes in Wyoming.

- Effective October 1, 2013 the sales/use tax rate in Crook County will decrease to 5%, as the specific purpose county option tax will be fully collected.
- Effective October 1, 2013 the combined sales, use and lodging tax rate for Crook County will be 7%.

It is prudent to periodically check our website for notices of tax rate changes. It is possible that there will be rate changes effective October 1, 2013 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, click on the Excise (Sales & Use Tax) Division, in the box titled "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.

Mandatory Gratuities Effective July 1, 2013:

Beginning July 1, 2013 mandatory gratuities will no longer be considered taxable as part of the sales price paid for meals. Gratuities whether offered voluntarily by the purchaser or invoiced by the seller will not be taxable.

When is sales tax due:

Wyoming recognizes an accrual basis of accounting. The statutes which govern when a sale occurs and therefore when the sales tax is due states, a sale occurs when there is a taxable product or service provided in exchange for consideration and the assumption of debt is consideration. For example: A well fracturing service is performed in March 2013; Sales tax is due by the vendor and is to be reported on their March 2013 sales/use tax return, at the sales tax rate in effect in March in the county in which the service was performed. This is true even if the vendor has not billed for the service or allows their customer terms for payment at some point in the future.

Motorcycle, off-road recreational vehicles, and boat sales:

In Wyoming sales tax is collected by the vendor selling the boat, motorcycle and/or ATV. Tax is collected by the vendor based on the location the customer takes receipt of the purchase. For example: A customer goes to a boat dealer in Casper Wyoming and purchases a boat and trailer and leaves the vendor's business with their

purchase; the vendor would collect 5% Natrona County tax on the boat as the customer took receipt of the boat at the business location. The boat dealer would not collect sales tax on the trailer as the tax on the trailer will be collected by the county treasurer when the trailer is registered. If the purchaser is not a resident of the State of Wyoming and provides the seller with an affidavit for exclusive use outside the state, the seller is not required to collect Wyoming sales tax. The seller would need to retain this affidavit in their business records. The affidavit is available on our website at <http://revenue.wyo.gov> from the home page select the "Excise (Sales & Use) Tax Division. In the box titled "Forms" select "Motor Vehicle Forms" the affidavit is the third item listed on the expanded menu.

Taxability of Digital Code:

Digital code is a specified digital product, and is taxed the same as the specified digital product it is related to. Cards such as Xbox Live 1600 Points Online Game Code Cards are an example of a card which is considered digital code and would be a digital audio visual work. These cards provide the purchaser with a code to purchase TV shows and movies, download and update games with new information as well download new songs and workouts. As the purchaser receives permanent use of the specified digital product it is subject to sales tax. These types of cards are taxable at the time the card is purchased, and not when the purchaser utilizes the card. This is because the seller would have no way of knowing the location where the card was used from and therefore would be unable to assess sales tax at the proper rate and jurisdiction.

Taxability of Computer Hardware, Software and Related Services:

Computer hardware and prewritten computer software are tangible personal property and subject to sales tax. As tangible personal property prewritten computer software does not have to be in a box for it to be

tangible. Wyoming administers prewritten computer software to be tangible personal property when a customer purchases discs in a store, on a load and leave basis, via internet download or some other means. In each event the customer receives the code; only the method of delivery is different. When a service provider is hired to install prewritten computer software this is a taxable event, as the service involves a repair, alteration or improvement to tangible personal property. This means that the service provider would invoice his customer for any materials used as well as the labor charges for installation. In Wyoming, charges for the installation of updates, upgrades and patches either manually executed or pushed for auto-execute are considered to alter the existing code and therefore result in a repair or alteration which is subject to sales tax. Other computer services subject to sales tax would include setting up operating system and software programs, creating or replacing/removing shortcuts, adding or removing mailboxes, and software programs, creating or replacing/removing shortcuts, configuration setting changes such as reconfiguring maintenance settings, rearranging files, adding print and scan capabilities, updating network connections, adding or removing drivers/programs for software and hardware changes and system efficiency, virus removal services, malware removal, defragmentation and similar services. Services performed by remotely accessing a customer's computer, versus being on-site do not alter the tax consequence of the service. Sales tax on services performed is assigned/assigned based on the location where the customer receives the service. In a traditional transaction where a customer brings their computer to a service provider's shop for repair, tax would be collected at the rate in effect in the county where the shop is located. When a computer repair service is provided by remotely

accessing the customer's computer the service provider digitally connects to their customer's system located at the customer's location; therefore tax would be assigned or based on the rate in effect in the county where the customer's computer is located.

Educational Seminars:

The Department will be conducting the following free sales/use tax seminars in the near future.

On August 6th we will be in Evanston conducting a General Sales/Use Tax Seminar and a Contractor Seminar. These seminars will be held at the Roundhouse Building.

On August 7th and 8th we will be in Rock Springs. On August 7th we will present a Contractor and an Oil and Gas Seminar. On August 8th we will present a General Sales/Use Tax Seminar. These seminars will be held at the Western Wyoming Community College.

On September 24th we will hold seminars in Thermopolis at the Big Horn Federal Savings Bank. We will present both a General Sales/Use Tax and a Lodging Tax Seminar. On September 25th we will conduct seminars in Rawlins at the Carbon County Higher Education Center. We will conduct a General Sales/Use Tax Seminar and a Contractor Seminar. For more information on these seminars please visit our web site at <http://revenue.wyo.gov> To register to attend any of these seminars please e-mail us at dor_taxability@wyo.gov with your name, business, location and name of seminar, and phone number.

Torrington Field Office:

The Torrington Field office has reopened. Please join the Department in welcoming our new Field Representative, Crissy Lopez.