



Resort Districts

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Wyoming Department of Revenue

A resort area has to meet certain criteria before it can be declared as a resort district. These criteria include having a population of 500 people or less, being an unincorporated area that does not cross county boundaries, being economically dependent on tourism, and not having manufacturing, processing, mineral extraction or power plants within its boundaries.

Once established, per W.S. 18-16-107 (a): “Each district may: (xxii) Impose an optional sales and use tax pursuant to W.S. 39-15-203 and 39-16-203;”

This ties in with W.S. 39-15-204(a)(v) which states, “In addition to the state tax imposed under W.S. 39-15-101 through 39-15-111 any county of the state may impose the following excise taxes and any city or town may impose the tax authorized by paragraph (ii) of this subsection and any resort district may impose the tax authorized by paragraph (v) of this subsection:...

An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of three percent (3%) upon retail sales of tangible personal property, admissions and services made within the district by vendors physically situated within the district, the purpose of which is for general revenue for the resort district;”

And, W.S. 39-16-204(a)(iv) states, “In addition to the state tax imposed under W.S. 39-16-101 through 39-16-111 any county of the state may impose the following excise

taxes and any resort district may impose the tax authorized by paragraph (iv) of this subsection:...

An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of three percent (3%) upon retail sales and storage, use and consumption of tangible personal property as provided by this article made within the resort district, the purpose of which is for general revenue for the resort district;”

Where a resort district excise tax is authorized, it is collected only by vendors within the district and only for sales made within the district. Consumers (business and personal) within the district must also remit the resort district excise tax on their purchases that are subject to tax. This is accomplished by filing the additional percentage on their use tax return as the vendor selling to the resort district from outside the district is not permitted to collect the resort district excise tax. The tax dollars generated by this tax are earmarked for infrastructure development within the resort district.

Sales subject to resort district tax

Vendors physically located within a resort district may impose the resort tax only on taxable sales that occur within the district beginning July 1, 2003.

Example

A pizza delivery restaurant located within the district delivers a pizza to a location also within the district, then that pizza is subject to the applicable sales tax plus the resort district excise tax.

If a pizza delivery restaurant located within the resort district delivers a pizza to a location outside the resort district, the transaction is subject to the applicable sales tax but not the resort district excise tax.

Conversely, Wyoming licensed vendors physically located outside of the resort district making sales into the district are required to collect only the tax rate in effect in the county where the resort district is located. The customer then is responsible to accrue and remit the additional resort district excise tax directly to the Department.

Leases subject to resort district tax

This situation is also true for the lease of tangible personal property requiring periodic payments by a person or business located within the resort district as sales tax is, for all payments after the first, based on the primary property location of the leased item. [W.S. 39-15-104(f)(ii)(A)]

Example

Let's assume ABC Company (located within the Resort District) leases computer equipment for use in their business. ABC has the lessor bring the equipment to their location. The tax associated with the first payment is assessed (i.e. sourced) to the location where ABC receives the equipment, their location in the resort district. Then for all remaining payments, the tax is attached to the primary property location of the equipment, again in the resort district. The

leasing company will collect and remit the State and County sales tax in effect and the business is responsible for self-accruing and remitting the additional resort district excise tax directly to the Department.

Similarly, this applies to leases of motor vehicles requiring periodic payments by a person or business located within the resort district as, again, sales tax is based on the primary property location of the leased vehicle. [W.S. 39-15-104(f)(iii)(A)]

For example, ABC Company (located within the Resort District) leases a delivery van and the primary property location of that van is the business location. The leasing company will collect and remit the State and County sales tax in effect and the business is responsible for self-accruing and remitting the additional resort district excise tax directly to the Department.

However, this does not apply to the purchase of a motor vehicle by a business or individual located within the resort district. W.S. 39-15-107(b)(i), speaks to the tax on motor vehicles, house trailers, trailer coaches, trailers or semi-trailers, and states "...the taxes imposed shall be collected by the county treasurer prior to the first registration in Wyoming and not upon subsequent registration by the same applicant. The county treasurer shall collect and remit to the department the tax in effect in the county of the owner's principal residence;" Since the tax is not based on the primary property location but on the county of the owner's principal residence, the resort district excise tax is not applicable.

Businesses located outside of the resort district, but doing business with those located within the resort district

For businesses not located within the resort district themselves but that do business with businesses and individuals located within the resort district, the following applies:

When a taxable service is performed within the resort district by a vendor whose place of business is not situated in the district, the seller of the service is only responsible to collect and remit the combined State and County tax rate in effect and the purchaser is liable for the additional resort district excise tax directly.

Example

A mobile auto glass replacement company travels to ABC Company (located within the resort district) to repair one of its vehicles. The service company bills, collects and remits the combined State and County tax rate and ABC is responsible to accrue and remit the additional resort district excise tax directly to the Department.

Contractors performing services within the resort district

Contractors who perform services to real property which is located within the resort district, the applicability of the resort district excise tax will depend where the contractor receives his materials. For a contractor who receives his materials within the district, he is responsible for satisfaction of state, county and resort district excise taxes. However, for a contractor who receives his materials outside of the district, only the applicable tax where he takes receipt of the materials is payable.

Example

John Doe Construction Company is hired to put a roof on ABC Company's building (located within the resort district) and as a result, John Doe purchases shingles, nails, tar paper, etc. If John Doe has those materials delivered to the job site (within the resort district) he is responsible for the full tax, including the resort district excise tax. So, if he purchased the materials from a Wyoming vendor, he should have already been charged the State and County tax rate in effect and he only has the resort district excise tax to accrue and pay directly to the Department. If no tax or insufficient tax was paid at the time of purchase due to an out of state purchase, he is directly responsible to self-accrue and remit the full tax directly to the Department less any credit for legally imposed and paid sales tax to another state.

If, however, John Doe has those materials shipped to him and takes possession of the materials at a location not within the resort district; and then takes them to the job site, he is only responsible for the tax applicable at the location where he initially received the materials. This means... if John Doe decides to have the materials shipped to his warehouse in Casper instead of the job site, he would be responsible for satisfying the applicable tax in Natrona County. And, he would not be responsible for any additional tax when he subsequently used them in the resort district.

Please be advised that this bulletin addresses issues in general terms and cannot be appropriate or applicable in all situations. If your situation is markedly different or you have concerns about this issue, please do not hesitate to contact this department. You can do so by e-mail directed to:
DOR_taxability@wyo.gov

Supporting Authority -

W.S. 39-15-104(f)(i)

(f) The tax rate imposed upon a transaction subject to this chapter shall be sourced as follows:

(i) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(A) When the product is received by the purchaser at a business location of the seller, the sale shall be sourced to that business location;

(B) When the product is not received by the purchaser at a business location of the seller's, the sale shall be sourced to the location where receipt by the purchaser, or the purchaser's agent designated as such by the purchaser, occurs, including the location indicated by instruction for delivery to the purchaser or donee, known to the seller;

(C) If it is undeterminable by the seller whether the product was received by the purchaser at a business location of the seller, the sale shall be sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(D) When subparagraphs (A) through (C) of this paragraph do not apply, the sale shall be sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address

is available, when use of this address does not constitute bad faith;

(E) When none of the previous rules of subparagraphs (A) through (D) of this paragraph apply, including the circumstance in which the seller is without sufficient information to apply any of the previous rules, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold;

(F) For the purposes of this paragraph the terms "receive" and "receipt" mean taking possession of tangible personal property, making first use of services or taking possession or making first use of digital goods, whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

W.S. 39-15-104 (f)(ii)

(f) The tax rate imposed upon a transaction subject to this chapter shall be sourced as follows:

(ii) The lease or rental of tangible personal property, other than property identified in paragraph (iii)

or (iv) of this subsection, shall be sourced as follows:

(A) For a lease or rental that requires recurring periodic payments, the first periodic payment shall be sourced the same as a retail sale in accordance with the provisions of paragraph (i) of this subsection. Periodic payments made subsequently to the first payment shall be sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of the business property that accompanies employees on business trips and service calls;

(B) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced the same as a retail sale in accordance with the provisions of paragraph (i) of this subsection;

(C) This paragraph shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

W.S. 39-15-104(f)(iii)

(f) The tax rate imposed upon a transaction subject to this chapter shall be sourced as follows:

(iii) The lease or rental of a motor vehicle, trailer, semi-trailer or aircraft that does not qualify as transportation equipment, as defined in paragraph (iv) of this subsection shall be sourced as follows:

(A) For a lease or rental that requires recurring periodic payment, each periodic payment shall be sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations;

(B) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced the same as a retail sale in accordance with the provisions of paragraph (i) of this subsection;

(C) This paragraph shall not affect the imposition or computation of sales or use tax on a lease or rental based on a lump sum or accelerated basis, or on the acquisition of property for lease.

W.S. 39-15-107(b)(i)

Except as provided by paragraph (viii) of this subsection, no vendor shall collect taxes imposed by this article upon the sale of motor vehicles, house trailers, trailer coaches, trailers or semitrailers. The taxes

imposed shall be collected by the county treasurer prior to the first registration in Wyoming and not upon subsequent registration by the same applicant. The county treasurer shall collect and remit to the department the tax in effect in the county of the owner's principal residence;

W.S. 39-15-203(a)(vi)(A)

Tasable event. The following shall apply:

(iv) The following provision applies to imposition of the resort district excise tax under W.S. 39-15-204(a)(v):

(A) The tax shall be imposed if favorably supported by a resolution adopted by the board of the resort district and approved by a majority of the district voters under W.S. 18-16-119.

W.S. 39-15-204(a)(v)

(a) In addition to the state tax imposed under W.S. 39-15-101 through 39-15-111 any county of the state may impose the following excise taxes and any city or town may impose the tax authorized by paragraph (ii) of this subsection and any resort district may impose the tax authorized by paragraph (v) of this subsection:

(v) An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of three percent (3%) upon retail sales of tangible personal property, admissions and services made within the district by vendors physically situated within the district, the purpose of which is for general revenue for the resort district;

W.S. 39-16-203(a)(iii)(A)

Taxable event. The following shall apply:

(iii) The following provision applies to imposition of the resort district excise tax under W.S. 39-16-204(a)(iv):

(A) The tax shall be imposed if favorably supported by a

resolution adopted by the board of the resort district and approved by a majority of the district voters under W.S. 18-16-119.

W.S. 39-16-204(a)(iv)

(a) In addition to the state tax imposed under W.S. 39-16-101 through 39-16-111 any county of the state may impose the following excise taxes and any resort district may impose the tax authorized by paragraph (iv) of this subsection:

(iv) An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of three percent (3%) upon retail sales and storage, use and consumption of tangible personal property as provided by this article made within the resort district, the purpose of which is for general revenue for the resort district;