

Excise Tax Division Newsletter
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Noteworthy Quote: "To vote is the foremost duty of every American." – 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.

Tax Rate Changes:

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

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

Future: There are no sales, use or lodging tax rate changes for the tax return quarter beginning January 1, 2007. Changes may occur on April 1, 2007 as many Wyoming counties have initiatives on the ballot for the general election on November 7, 2006. If rates are to change on April 1, 2007 we will provide notice both on our web site and in our December *Taxing Issues*.

The current tax rate chart bears an effective date of April 1, 2006. Find it online at <http://revenue.wy.gov> by clicking on the "Publications" tab in the red banner. Then scroll to "Sales and Use Tax Materials" followed by a click on "Sales and Use Tax Rates."

Taxability Tidbits & More:

→ Vendors are reminded that their retail sales of snowmobiles, lawn tractors and all-terrain vehicles **do not qualify** for Wyoming's sales/use tax exemptions for farm implements. Such sales remain subject to Wyoming sales/use tax.

→ Vendors are also reminded that retail sales of mopeds, motorcycles, boats and off-road recreational vehicles in Wyoming are subject to Wyoming sales tax.

→ For the two (2) preceding categories the residency of the purchaser doesn't matter. If the retail sale occurs in Wyoming the applicable

county sales tax rate applies to the transaction.

→ Public school districts located outside of Wyoming **do not qualify** for sales/use tax exemption in Wyoming. These exemptions apply to the State of Wyoming **and its** political subdivisions which includes Wyoming public school districts.

→ Oil and gas services rendered within an oil or gas well site in Wyoming during its **preproduction casing phase** are exempt from Wyoming sales tax.

→ Oil and gas services rendered within an oil and gas well site in Wyoming during its **production casing phase** are subject to Wyoming sales tax.

→ The rig up/rig down exemption for drilling rigs also applies to workover rigs engaged in drilling oil or gas wells during their **preproduction casing phase**.

→ The rig up/rig down exemption for drilling rigs does not apply to workover rigs dispatched to clean out a well that has sanded up during the **production casing phase**. The rig up/rig down of a workover rig in this context is associated with a taxable oil and gas service in Wyoming.

→ **The General Rule:** Vendors must collect and remit Wyoming sales tax on their retail sales of tangible personal property in Wyoming. **The Exceptions:** 1) the transaction is sales tax exempt and the purchaser provides the vendor a fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption* or 2) the purchaser provides the

vendor a copy of their direct pay permit.

* Some exemptions do not require an exemption certificate. For the details please see our article that follows entitled "Exemption Matrix Online."

→ Vendors must retain in their business records for three (3) years suitable records, books, and invoices for audit purposes, including exemption certificates and direct pay permits from their purchasers.

→ Exempt charges must be separately stated from taxable charges on invoices. Failure to do so renders the entire invoice subject to Wyoming sales tax.

→ Out-bound freight charges are not part of the tax base of a *retail* sale. Such charges must be separately stated from taxable charges on invoices. *Wholesale* in-bound freight charges are a component of the cost of goods sold. Thus, like mark-up and overhead, in-bound freight charges are part of the eventual retail sales price paid by the end consumer.

→ The sale of a business entity when sold to a purchaser of all or not less than eighty percent (80%) of the value of all of the assets located in Wyoming is excluded from the definition of a sale for Wyoming sales/use tax purposes, if other statutory conditions are also met. Other types of asset transfers are similarly excluded under Wyoming law. While our law recognizes exclusions as different from exemptions they have the same result, no tax due.

→ Purchases by businesses and professional persons of equipment, tools and supplies for use in conducting their businesses are subject to Wyoming sales/use tax. For example, wrenches, shop rags, computers are taxable to the business as the end consumer.

Important Changes Related to Exemption Certificates:

Effective July 1, 2006 only the Streamlined Sales and Use Tax Agreement Certificate of Exemption is valid for use in Wyoming. The ETS Form 101 Exemption Certificate is no longer valid for claiming Wyoming sales tax exemptions. Any exemptions claimed prior to July 1, 2006 on the ETS Form 101 remain valid for record retention purposes.

A second important change as of July 1, 2006 is that vendors are no longer required to retain copies of letters of authority from exempt religious and charitable organizations. Vendors need only retain copies of completed exemption certificates from these organizations. In completing their exemption certificates, religious and charitable organizations must write their Revenue Identification Number (RID) on the exemption certificate. This number is assigned by our agency to such organizations. Federal tax identification numbers or those issued by other agencies are not sufficient for this purpose.

Exemption Matrix Online:

Our division administers forty-eight (48) sales tax exemptions and twenty-eight (28) use tax exemptions. [W.S. 39-15-105, W.S. 39-16-105] These numbers include the new sales and use tax exemptions for food for domestic home consumption which are found in our state's General Government Appropriations Act. [*Session Laws of Wyoming, 2006, Original House Bill 1, Section 325*]

Generally, use tax exemptions mirror sales tax exemptions. In the interest of vendor and taxpayer education we created a sales tax Exemption Matrix.

The matrix lists each of Wyoming's sales tax exemption statutes and provides examples and any special requirements. In addition, the matrix provides guidance on how to properly list the reason for an exemption on the Streamlined Sales and Use Tax Agreement Certificate of Exemption.

Please find the Certificate of Exemption and the Exemption Matrix on our website. Click on the "Forms" tab in the red banner. Then scroll to the grey scale heading "Excise (Sales, Use, Cigarette and Estate Tax)" and click on "Exemption/Power of Attorney Forms." Then click on "Streamlined Sales Tax Agreement Certificate of Exemption with Matrix." There are eleven (11) pages in all with the Certificate of Exemption and related information comprising the first four (4) pages followed by the Exemption Matrix.

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 Rice at (307)777-7615 or by e-mail at: Shanda.Rice@wy.gov

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* Denotes new field representatives for these offices.