

*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 Administrator for the Excise Tax Division:

Effective August 19th, 2013 Kim Lovett assumed the duties of the Administrator of the Excise Tax Division. Please join us in welcoming Kim to the Excise Tax Division.

Tax Rate Changes:

Present:

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%.

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 January 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 January 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.

Vendors who also act as contractors:

Oftentimes, a vendor who sells or performs services to tangible personal property also acts as a contractor performing services to real property. Some common examples of this would be; A painter who paints real property (homes, buildings etc.) and also sells paint, paint supplies, and paints tangible personal property, (car, furniture, etc.), a plumbing supply store that sells plumbing fixtures and rethreads pipe and also installs

plumbing fixtures to real property, a heating/air conditioning business that sells furnaces and air conditioning units without installation, and also offers installation and repairs to the units once installed. In all these instances and many more, the business is acting as both a vendor and a contractor, this is important as these different roles have differing tax consequences. A licensed vendor who acts as both a vendor and a contractor in Wyoming may take advantage of an exemption to purchase materials and supplies without the payment of sales tax on a wholesale for resale basis. Wyoming allows this because at the time of purchase it may be difficult to determine which materials and supplies will be consumed as a contractor and which will be sold by the same party acting as a vendor. As a vendor the expectation is that the tax will be collected when the property purchased, is sold to the retail customer. Rather than paying the tax "up front" to suppliers on the materials consumed as a contractor and purchasing materials on a wholesale for resale basis as a vendor, creating a mixed inventory; those persons who act in both capacities maintain a tax free inventory and are permitted to determine the tax consequence at the time that the materials are removed from inventory. Permit a few examples;

Using the plumbing supply store as an example we will walk through the different roles and how tax applies in each role. When a customer goes into a plumbing supply store and purchases a new faucet that the customer will install themselves, the vendor (plumbing supply store) will charge the customer sales tax on the retail price of the faucet. The vendor then reports that sale and remits the sales tax due to the department on their periodic sales tax return.

When a customer brings in a length of pipe that needs to be rethreaded, the plumbing supply store is again acting as a vendor performing a service which repairs, alters or improves tangible personal property. The vendor will charge their customer sales tax on the price charged for the taxable service of rethreading the pipe, and remit that tax to the department on their periodic sales tax return.

When a customer hires the plumber from the plumbing supply store to install new toilets, shower fixtures, and unclog a drain in their home, the business is now acting as a contractor. The contractor is not selling the new toilet, and shower fixtures to his customer he is using those items to perform a service to the customer's real property. The contractor is selling the service of installing a new toilet, shower fixtures and unclogging the drain. In this instance the contractor will remove all the materials and supplies necessary for the installation of the new toilet and shower fixtures from his inventory and will owe tax on their cost of those items, when the items are held in an inventory where no tax has been paid. This tax is then also remitted to the department on the same periodic sales tax return which the vendor reports his retail sales. When the contractor completes his service to the real property the invoice he presents his customer does not contain a line item of sales tax. The contractor embeds the tax he paid along with overhead, insurance, etc. without presenting the customer with an invoice reflecting a line item of sales tax. For example an invoice presented to the customer for this installation may look like the following; Installation of toilet and shower fixtures: \$750.00

Unclog drain: \$150.00

Total due: \$900.00

Or a contractor may separate the labor charge from any materials used for the installation; in any event there will never be a line item of tax on an

invoice given to a customer for a service to real property.

Guides, Outfitters and Dude Ranches:

Did you know how your invoice will affect the amount of tax you charge your customer? Most guides, outfitters and dude ranches charge for meals, lodging, equipment rental as well as the skill and direction of the guide, and/or the ranching experience. If your customer is billed a lump sum of \$2500.00 dollars for the package and the package contains a taxable element (meals, lodging, and equipment rental) then the entire \$2500.00 is subject to sales tax and lodging tax if applicable. If you present your customer an itemized bill sales tax is only charged on those sales and services which are subject to sales tax. In order to understand what areas of the business are taxable allow us to discuss the different aspects of the business and how tax is applied to each. Guided Services: a separately stated charge for the skill and direction of a guided service; for fishing trips, hunting trips, horseback trips, etc., is not subject to sales tax. This is considered a professional service which is not subject to sales tax.

Meals or Snacks: Wyoming imposes tax on the sales price paid for meals where they are regularly served to the public. Therefore, a separately stated charge for meals is subject to sales tax.

Rentals of equipment: Oftentimes a guide will rent a rifle or some other equipment to his customer for use during the hunt. A rental of tangible personal property is subject to sales tax in Wyoming.

Lodging Services: Wyoming imposes sales tax and if locally enacted lodging tax on the sales price paid for living quarters in hotels, motels, tourist courts and similar establishments providing lodging services to transient guests. However when lodging services are provided by a person known to the

trade and public as a guide or outfitter, including placement of tents, snow shelters, base camps, or other temporary structures which are dismantled or abandoned after use; these types of lodging services are exempt from the lodging tax. Please understand however, these types of lodging services are still subject to the sales tax.

Any other lodging services provided by a dude ranch, a hotel, motel, etc. are subject to both sales and lodging tax when lodging tax is locally enacted.

If these taxable items are separately stated from any non-taxable charges on the invoice/bill of sale provided to your customer, each item maintains its own tax consequence. A typical separately stated invoice may look something like the following:

2 day guided hunting trip:

\$475.00 NT

Meals:

\$150.00 T

Rifle Rental:

\$75.00 T

Tent:

\$50.00 T (subject to sales tax but exempt from lodging tax)

Sub Total:

\$750.00

Sales Tax (assuming a 6% county):

\$16.50

Total Due:

\$766.50

In contrast if you present your customer with an invoice without these charges separately stated (lump sum bill) then the entire \$750.00 is subject to sales tax. Using the same example;

2 day guided hunting trip with meals, equipment and tents:

\$750.00 T

Sales tax (assuming a 6% county)

\$45.00

Total due:

\$795.00

If you have additional questions concerning this information or additional topics, please contact our office by e-mail at DOR_taxability@wyo.gov