

*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 October 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.

Effective with the tax return quarter beginning January 1, 2015 there will be the following sales, use and lodging tax rate changes in Wyoming.

- Effective January 1, 2015 the sales/use tax rate in Washakie County will decrease to 4% as the specific purpose county option tax will be fully collected.
- The voters of Platte County approved the imposition of a 3% lodging tax. Therefore effective January 1, 2015 the lodging tax rate for Platte County will be 3%.
- Effective January 1, 2015 the combined sales, use and lodging tax rate for Washakie County will be 8%.
- Effective January 1, 2015 the combined sales, use and lodging tax rate in Platte County will be 9%.

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.

Exemption Certificates:

Wyoming utilizes the Streamlined Sales Tax Agreement Certificate of Exemption as the valid exemption certificate. Vendors should obtain the Streamlined Exemption certificate from their customer claiming an exemption from sales tax on their purchases. This is the same form that

a vendor is to provide to their suppliers when claiming an exemption from sales tax on their purchases. The ETS form 101 was phased out effective June 30, 2006. Any certificates received prior to that date remain in effective until cancelled by the purchaser. Any exemption certificates issued after June 2006 should be issued on the Streamlined Exemption certificate. When accepting your purchaser's exemption certificate, vendors must ensure the form is fully complete and signed by the purchaser. Please keep in mind that this form is the only document, besides a direct pay permit, which relieves vendors of the responsibility of collecting sales tax on taxable sales and services. These exemption certificates do not expire and are valid as long as your customer is making recurring purchases and the exemption being claimed is still a valid exemption in Wyoming. The Department does not have any requirement for vendors to update these forms on any prescribed basis. The Streamlined Exemption Certificate may be reviewed and downloaded from our website at <http://revenue.wyo.gov> From the home page, select; Excise (Sales & Use) Tax Division, followed by a click on "Forms" select Exemption Certificate/Power of Attorney Forms, then click on SSTP Certificate of Exemption with Matrix.

Companies leasing motor vehicles in Wyoming:

Companies involved in leasing motor vehicles (that do not qualify as transportation equipment) in Wyoming are required to license as a vendor in Wyoming, to collect and remit the appropriate tax rate on their leases. To determine the appropriate tax rate the leasing company must know the primary location of the property being leased. For a lease or rental that requires requiring period

payments (i.e. monthly payments) the tax rate is determined by the primary property location (i.e. principal residence of the lessee). This address is available to the lessor from its records maintained in the ordinary course of business. It is important to understand that during the lease stream the tax rate may change. The tax rate in the county may increase if voters approve an additional tax initiative in the lessee's county. It is also possible for the tax rate to decrease if a tax initiative in place has been fully collected. Also if the lessee moves to another county in Wyoming during the lease stream the tax rate would change to the rate in effect in that county. It is the leasing company's responsibility to collect and remit the appropriate tax rate on their leases in Wyoming. When a lease or rental does not require recurring period payments (i.e. one payment) the tax rate is determined by where possession of the rented/leased motor vehicle passes to the lessee.

Refunds of erroneously paid sales tax:

Vendors may have occasions where a customer may request a refund of sales tax paid on a purchase where the tax was paid erroneously. It is possible that the customer may have been able to avail themselves of an exemption for the purchase and at the time of purchase neglected to supply the vendor with the proper documentation to support the exemption. In that case the vendor would have charged the customer tax. In these instances if the customer is able to supply the vendor with a properly completed Streamlined Sales Tax Agreement Certificate of Exemption, the vendor may refund the sales tax. Per W.S. 39-15-109(c)(ii) the vendor who originally collected the tax must be the party to refund the tax to the customer.

The vendor may then request a credit or refund from the department in one of two ways. The vendor would either amend the return where the original tax was paid, or the vendor may take the credit against a subsequent

liability with the department. Either is acceptable, however we caution vendors to maintain adequate records to support the method chosen.

The department is unable to refund tax to a taxpayer that did not remit the tax directly to the department.

Please note: No credit or refund shall be allowed after three (3) years from the date of overpayment.

Updated information posted to our web site:

The Excise Tax Division has updated our Vendor Manual. This manual is available on our web site at <http://revenue.wyo.gov> from the home page locate the "Excise (Sales & Use) Tax Division," then click on "Sales & Use Tax Materials" followed by a click on "Vendor Manual." This is our third version of the manual and has been updated to include detailed information on; determining the proper rate of tax to charge (i.e. sourcing), electronic filing, vendor compensation credit and much more. If you haven't reviewed this manual recently, please take a few minutes to review it.

We have also posted to our web site, three new educational bulletins and two publications. The bulletins include information pertaining to direct pay permits, sourcing of sales tax, and vendor compensation. The new publications are Computer Sales and Services and a publication for the Restaurant Industry. All other publications and bulletins have been updated to include additional information and updated rule citations. Effective July 24, 2014 the Governor signed and made effective the new Sales and Use Tax Rules. These rules are a reduction of the previous rules in order to streamline state government. Therefore the department deleted rules that were repetitious because they were included in the Wyoming Statutes.

On-Line Travel Companies:

Recently the Supreme Court in the State of Wyoming issued its ruling affirming the decision rendered by the Wyoming State Board of Equalization *In the Matter Of The Appeal Of On-*

Line Travel Companies. The Supreme Court ruled that OTC's operating under the merchant model were acting as a vendor in the State of Wyoming and are required to obtain a sales tax license and collect and remit sales and lodging tax on any hotel accommodations they sell in Wyoming. Through the "merchant" business model the OTC enters into an agreement with the hotel to market and book hotel lodging services for the OTC's customers. As part of this arrangement, the hotel agrees to offer its lodging services through the OTC at a discounted rate. The OTC then sells those services to its customers at a higher rate than the discounted rate charged by the hotel. The OTC books the reservation for the lodging services with the hotel and collects the higher advertised sales price, taxes and fees for the services from its customer. After the hotel stay the hotel bills the OTC the discounted lodging rate and the tax associated with the discounted price. Upon remitting the agreed upon lodging rate and associated tax to the hotel the OTC retains the difference between the discounted rate and the higher customer rate, plus any fees. Under this model taxes are not paid on the full price paid by the customer for the hotel lodging services. Due to the ruling from the Wyoming Supreme Court OTC's and any other business operating under the "merchant model" will no longer be able to operate utilizing the "merchant model." Therefore effective January 1, 2015 any person/business, national or international who book hotel rooms in Wyoming under the "merchant model" must license as a vendor with the Department of Revenue and begin collecting and remitting sales and lodging tax on the full sales price paid for all room reservations they sell.

Webinars:

We will be scheduling educational webinars soon. If you are interested in attending a taxability seminar in a webinar format please contact us by e-mail at dor_taxability@wyo.gov