



Gift Cards and Gift Certificates

Originally issued September 30, 2004/Revised July 1, 2013
Wyoming Department of Revenue

Gift cards and gift certificates are cards/certificates that can be purchased, from a store, which entitles the purchaser to select merchandise in the amount indicated. The purchase of a gift card/certificate merely represents an exchange of intangible personal property, an amount of money for a voucher with a monetary equivalent, no different than five single dollar bills can be exchanged for one five dollar bill. [W.S. 39-15-101(a)(xxxi)] Because this exchange does not represent a sale of tangible personal property the purchase of a gift card/certificate is not subject to Wyoming sales tax. If a sales tax issue arises, it does so because a taxable event occurs in the subsequent transaction where the gift card/certificate is redeemed.

Examples

A customer purchases a \$50 gift certificate and then purchases a \$25 book from a local bookseller. As an item of tangible personal property the book sale is subject to Wyoming sales tax. [W.S. 39-15-101(a)(ix); W.S. 39-15-103(a)(i)(A)] Use of the gift certificate as the payment instrument would not alter this fact. Tax then follows as such. The person purchases the gift certificate exchanging their \$50 in currency for the \$50 certificate (no tax). Then, tax would be applied to the sales price of the book and the gift certificate would be used as payment.

In contrast, if the customer purchases a massage service from a nearby spa instead, tax would not have been assessed at the time

the certificate was redeemed because massage services are not subject to Wyoming sales tax. The use of the gift certificate to pay for this service will not change this either. Gift cards/certificates are just a method of payment.

Discounted merchant gift cards/certificates

In most cases, gift certificates are sold for face value; meaning in order to purchase a fifty dollar (\$50) gift certificate, the purchaser must pay \$50 for it. When this is the case tax is simple, from the customer's perspective they have paid fifty dollars and the same is true for the retailer. However this is not always the fact. In recent years, because of organizations such as restaurant.com and gift cards.com and others, discounted merchant gift cards and gift certificates are becoming more the norm. These gift cards/certificates may be valid for \$50 of merchandise or services but the purchaser only pays a portion of that amount to purchase the card, say \$30. In these situations the retailer is essentially lowering the sales price of his merchandise or services.* When there is an unreimbursed reduction of the sales price of a product by a retailer, the retailer generally collects and remits tax based on that reduction. [W.S. 39-15-101(a)(xiii)] To resolve the fact that the face value of a gift card/certificate may be different than the actual value the customer paid for it, the Department administers tax on gift cards and gift certificates as follows:

When a taxable product or service is purchased and the gift card or gift certificate indicates both the purchase price (i.e. \$30 paid by the customer) and the redeemable value (i.e. the full value \$50), sales tax will be calculated by the retailer based on the discounted amount.

Examples

A customer makes an \$80 restaurant purchase and uses a \$50 gift card/certificate as partial payment and pays the remainder with another method. Provided the gift card/certificate also indicates the sales price paid by the customer for the gift certificate, the retailer may calculate tax on the actual consideration received, or \$60 (\$30 gift card/certificate plus \$30 other). But when the gift card or certificate does not also indicate the purchase price then the retailer must calculate tax on the consideration amount that the payments bear, or \$80.

*Further discussion of retailer offered discounts to the sales price given in our Coupons and Discounts Excise Tax bulletin, available on our website.

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. 39-15-101(a)(viii)

"Sales price":

(A) Shall apply to the measure subject to sales tax and means the total amount or consideration, including cash, credit, property and services for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(I) The seller's cost of property sold;

(II) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller and any other expense of the seller;

(III) Charges by the seller for any services necessary to complete the sale other than delivery and installation charges;

(IV) Delivery charges;

(V) Installation charges;

(VI) Repealed by Laws 2007, Ch. 10, 2.

(B) Shall not include:

(I) Discounts, including cash, terms or coupons which are not reimbursed by a third party, which are allowed by a seller and taken by a purchaser on a sale;

(II) Interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(III) Any tax legally imposed directly on the consumer which is separately stated on the invoice, bill of sale or similar document given to the purchaser.

(C) "Sales price" shall include consideration received by the seller from third parties if:

(I) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to the price reduction or discount on the sale;

(II) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(III) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(IV) One (1) of the following criteria is met:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is

available to any patron shall not constitute

membership in such a group; or

(3) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

W.S. 39-15-101(a)(ix)

"Tangible personal property" means all personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses.

"Tangible personal property" includes electricity, water, gas, steam and prewritten computer software; and includes any controlled substances as defined by W.S. 35-7-1002(a)(iv) which are not sold pursuant to a written prescription of or through a licensed practitioner as defined by W.S. 35-7-1002(a)(xx);

W.S. 39-15-101(a)(xxxi)

"Intangible personal property" includes:

(A) Money and cash on hand including currency, gold, silver and other coin, bank drafts, certified checks and cashier's checks;

(B) Money on deposit;

(C) Accounts receivable and other credits;

(D) Bonds, promissory notes, debentures and other evidences of debt;

(E) Shares of stock or other written evidence of ownership;

(F) Judgments for the payment of money;

(G) Annuities and annuity contracts.

W.S. 39-15-103(a)(i)(A)

Except as provided by W.S. 39-15-105,
there is levied an excise tax upon:

The sales price of every retail sale of
tangible personal property within the
state;