

Excise Tax Division Newsletter
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Noteworthy Quote: "Taxes are what we pay for civilized society." – Oliver Wendell Holmes, Jr., former U.S. Supreme Court Justice

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.

Interest Rate Change: Effective January 1, 2007 our interest rate for delinquent accounts decreases to an annual percentage rate of 7.179%. The equivalent daily interest rate is .01967%. Annually the State Treasurer establishes the interest rate according to a statutory formula.

Tax Rate Changes: There were no sales, use or lodging tax rate changes for the tax return quarter beginning October 1, 2006. Ditto for the quarter that begins on January 1, 2007. ***Pursuant to W.S. 39-15-207(c) and W.S. 39-16-207(c) notice is given of the following future tax rate changes.*** Effective with the tax return quarter beginning April 1, 2007 there will be seven (7) sales, use and lodging tax rate changes in Wyoming. In addition, effective with the tax return quarter beginning July 1, 2007 the sales and use tax rates for Lincoln County ***decrease*** to 4%. ***Now for the details of the sales, use and lodging tax rate changes in Wyoming effective April 1, 2007:***

- ▶ The sales/use tax rates for Carbon County ***decrease*** to 5%;
- ▶ The sales/use tax rates for Fremont County ***increase*** to 5%;
- ▶ The sales/use tax rates for Goshen County ***increase*** to 5.25%;
- ▶ The lodging tax rate for Laramie County ***increases*** to 4%; *
- ▶ The lodging tax rate for only the town of Kemmerer in Lincoln County ***increases*** to 4%; [Note: ***This lodging tax rate increase on April 1, 2007 for Kemmerer is not to be confused with the sales/use tax rate decrease in Lincoln County on July 1, 2007.***]
- ▶ The sales/use tax rates for Park County ***increase*** to 5%; and
- ▶ The lodging tax rate for Washakie County ***increases*** to 4%. **

* Effective April 1, 2007 the combined sales and lodging tax rates for lodging services in Laramie County will be 10%.

** Effective April 1, 2007 the combined sales and lodging tax rates for lodging services in Washakie County will be 9%.

Find our tax rate charts 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."

Important Notices:

- ▶ Vendors are reminded that their retail sales of snowmobiles, lawn tractors and all-terrain vehicles ***do not qualify*** for Wyoming's sales tax exemption for farm implements. Such sales are subject to Wyoming sales tax. [W.S. 39-15-103(a)(i)(A), W.S. 39-15-105(a)(viii)(H)]
- ▶ Vendors are also reminded that retail sales of mopeds, motorcycles, boats and off-road recreational vehicles in Wyoming are subject to Wyoming sales tax. [W.S. 39-15-103(a)(i)(A), W.S. 39-15-107(b)(viii)] The vendor collects Wyoming sales tax on such sales based on the county rate where the sale occurs.
- ▶ It is a misdemeanor offense in Wyoming for a vendor to advertise or state directly or indirectly to the public that sales tax will be assumed by the vendor or not considered in the price, or if added, will be refunded. [W.S. 39-15-108(c)(iii)(vii)]

Exemption Certificate & Matrix:

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.

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]

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. Scroll to the

grey scale heading "Excise (Sales, Use, Cigarette and Estate Tax)." Click on "Exemption Certificate/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.

Exempt Purchases for Resale by Out of State Vendors: Wyoming vendors have asked us to clarify the proper documentation for purchases for resale made by out of state vendors in Wyoming. All licensed vendors making exempt purchases for resale must provide Wyoming vendors a completed Streamlined Sales and Use Tax Agreement Certificate of Exemption. [Find online the Exemption Matrix per immediately preceding article and see Wholesale sales at W.S. 39-15-105(a)(iii)(F)]

Out of state vendors must also attach a copy of their home state sales tax license or resale permit number to the completed exemption certificate that they give to a Wyoming vendor. For out of state vendors located in non-sales tax states, evidence of business registration in their home state attached to the completed exemption certificate is acceptable.

Taxable Prepared Foods, Utensils & Exempt Foods: There has been some confusion as to what constitutes taxable prepared food when the seller provides utensils. Specifically the issue is when utensils are available in a common area versus when they are handed to the purchaser by the seller. We first reported on our interpretation of this issue in our June 2006 *Taxing Issues*. [Vol. 9, Qtr. 2]

The following information clarifies our earlier interpretation. A Wyoming vendor selling 75% or more prepared foods falls outside of our rule regarding utensils. [Wy Dept of Rev

Rules, Chap 2, Sec. 3(v)(i)(A)] The Wyoming vendor must impose Wyoming sales tax on all food sales if more than 75% of such sales are:

-foods heated by the seller or
-foods where the seller combines ingredients to make a single item.*

*The sole exception to this interpretation is for exempt foods containing four (4) or more servings as determined by the nutritional facts panel. For more information online please go to our website's main page. Under the heading "FYI: Sales Tax on Food Exemption" click on the bullet entitled, "Taxable Prepared Foods, Utensils & Exempt Foods."

Vendor Education: Check out the "What's New?" section of our website's main page for our scheduled seminars. To register for any of our seminars please contact Robert Tompkins at (307)777-5293 or by e-mail at: Robert.Tompkins@wy.gov

Wyoming Excise Tax Division Field Offices: The area code prefix is 307 for all of our field offices.

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The General Session of the 58th Wyoming Legislature convenes in Cheyenne on January 9, 2007. To track legislation throughout the session we suggest the Legislative Service Office website at: <http://legisweb.state.wy.us>

In our March 2007 Taxing Issues we will summarize new excise tax laws. Best wishes for a safe and prosperous 2007! We look forward to another year of serving you!