



Fuel Surcharges

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Wyoming Department of Revenue

A fuel surcharge is considered by the department to be a non-optional service fee that is included in the sales price to the end consumer. As such, the fuel surcharge is part of the taxable base. Surcharges are taxable when the underlying service is subject to Wyoming sales tax as they become part of the sales price, or consideration that must be paid in order to receive the product or service. [W.S. 39-15-101(a)(viii)] Similarly, such surcharges are not taxable when the underlying service is exempt or otherwise not subject to Wyoming sales tax.

Examples

A fuel surcharge added to a transportation charge (e.g. delivery) is non-taxable due to the fact that transportation is specifically exempted from tax. [W.S. 39-15-105(a)(ii)(A); W.S. 39-15-05(a)(viii)(A)(II)]

A fuel surcharge added to a taxable service (e.g. mobile vehicle detailing) would be taxable since Wyoming imposes sales tax on the repair, alteration or improvement of tangible personal property. [W.S. 39-15-103(a)(i)(J)]

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(VI) Repealed by Laws 2007, Ch. 10, 2.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 separate 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. 39-15-103(a)(i)(J)

There is levied an excise tax upon:

The sales price paid for services performed for the repair, alteration or improvement of tangible personal property;

W.S. 39-15-105(a)(ii)(A)

Interstate transportation of freight or passengers;

W.S. 39-15-105(a)(viii)(A)

Intrastate transportation of:

- (I) Employees to or from work when paid or contracted for by the employee or employer;
- (II) Freight and property including oil and gas by pipeline.