



# Third Party Drop Shipping

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Wyoming Department of Revenue

Third party drop shipping is a supply chain management technique where the retailer does not obtain prior possession of products purchased by his customer's but instead transfers a customer's order to his supplier/manufacturer for direct shipment to his customer. The Department views third party drop shipping to be a series of transactions where the supplier/manufacturer sells his product to a vendor for subsequent resale but ships the item to the vendor's customer directly. For example, a distributor (vendor) sells an item to his customer but he does not actually have it in stock. The vendor contacts the supplier/manufacturer of the product, makes a purchase and in an effort to avoid double shipping and related costs, has the product shipped direct to his customer. In order to understand the tax liability we will look at each transaction separately.

## 1<sup>st</sup> Transaction - between the supplier/manufacturer and the vendor

First is the transaction between the supplier/manufacturer and the distributor (vendor). In most instances the vendor is licensed to collect Wyoming sales/use tax but that is not always the case. If the vendor is appropriately licensed, either in Wyoming or in his home state, he may make this purchase without the payment of Wyoming sales tax on a wholesale for resale basis. In order to document this transaction a Wyoming licensed vendor would provide his supplier/manufacturer with a properly completed Streamlined Sales and Use Tax

Agreement Certificate of Exemption and a vendor licensed in a state other than Wyoming would provide a similarly appropriate exemption certificate containing the same data elements and recognized as valid by his home state. So long as the vendor provides the supplier/manufacturer with the proper exemption information, this transaction would not be subject to Wyoming sales tax. The supplier/manufacturer is then relieved of any Wyoming sales/use tax obligations for this transaction.

## 2<sup>nd</sup> Transaction – between the vendor and the Wyoming customer

Second is the transaction between the distributor (vendor) and his Wyoming customer. Unless an exemption exists, Wyoming imposes sales tax on the retail sale of all tangible personal property in this state. Therefore, a tax liability exists for this retail transaction. If the vendor is licensed in Wyoming, he is required to collect and remit Wyoming sales tax from his customer on this transaction. If the vendor is not a licensed vendor in our state, he is not required to collect and remit Wyoming sales tax. Even so, this does not make the purchase exempt or not subject to tax, the tax liability still exists, the fact that the unlicensed vendor did not collect the tax only places the responsibility on the customer directly to remit the tax to our Department.

According to Wyoming Statutes, customers who make first use of taxable services or purchase tangible personal property, outside the state of Wyoming for use, consumption or storage in Wyoming are liable for use tax. Use tax is a complement to our sales tax, and puts in-state vendors on an equal footing with out of state vendors. Use tax is equivalent to the sales tax rate in the county in which the tangible personal property is delivered, with an offsetting credit for any tax paid to another state.

Let us emphasize that the tax liability of this second transaction never falls to the supplier/manufacturer. The supplier /manufacturer is only fiscally involved in the first transaction with the distributor (vendor). In the second transaction the supplier/manufacturer is strictly acting as a contract carrier/shipping agent for products that have been purchased by a Wyoming customer. Provided the first transaction was properly documented as a wholesale for resale transaction their responsibility is satisfied.

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. 39-15-103(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;

W.S. 39-15-105(a)(iii)(F)

For the purpose of exempting sales of services and tangible personal property consumed in production, the following are exempt: Wholesale sales excluding sales of 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. 39-15-107(a)(i)

Each vendor shall on or before the last day of each month file a true return showing the preceding month's gross sales and remit all taxes to the department. The returns shall contain such information and be made in the manner as the department by regulation prescribes. The department may allow extensions for filing returns and paying the taxes by regulation, but no extension may be for more than ninety (90) days. If the total tax to be remitted by a vendor during any month is less than one hundred fifty dollars (\$150.00), a quarterly or annual return as authorized by the department, and remittance in lieu of the monthly return may be made on or before the last day of the month following the end of the quarter or year for which the tax is collected. If the accounting methods regularly used by any vendor are such that reports of sales made during a calendar month would impose unnecessary hardships, the department after receiving a formal request filed by the vendor may accept reports at intervals as would be more convenient to the taxpayer. Any vendor shall report whether the vendor sells cigarettes, cigars, snuff or other tobacco products in this state to the department in the form and manner required by the department. The department may reject any report required under this paragraph of any vendor who does not comply with the tobacco sales reporting requirements. Every person purchasing

goods or services taxable by this article who does not pay the tax owed to a vendor shall, on or before the last day of each month, file a return showing the gross purchases made during the preceding month and remit all taxes due to the department. The return shall contain such information and be made in the manner as the department shall prescribe by rule and regulation. The department, by rule and regulation, may allow an extension for filing a return and paying any tax due, but no extension shall be granted for more than ninety (90) days;

W.S. 39-16-103(a)

(i) Persons storing, using or consuming tangible personal property or specified digital products, except as otherwise provided in this paragraph, are liable for the tax imposed by this article. Specified digital products are only subject to the tax imposed by this article if the purchaser has permanent use of the specified digital product. A vendor who purchases specified digital products for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition in whole or in part to another person shall be considered a wholesaler and not subject to the tax imposed by this article. Those services provided by a trade association as part of a member benefit are not subject to the tax imposed by this subparagraph. The liability is not extinguished until the tax has been paid to the state but a receipt given to the person by a registered vendor in accordance with paragraph (c)(i) of this section is sufficient to relieve the purchaser from further liability;

(ii) Specified digital products sold and tangible personal property sold by any person for delivery in this state is deemed sold for storage, use or consumption herein and is subject to the tax imposed by this article unless the person selling the property has received from the purchaser a signed

certificate stating the property was purchased for resale and showing his name and address. Specified digital products are only subject to the tax imposed by this article as specified in paragraph (i) of this subsection;”

W.S. 39-16-103(a)

(i) Persons making first use of taxable services or storing, using or consuming tangible personal property or specified digital products, except as otherwise provided in this paragraph, are liable for the tax imposed by this article. Specified digital products are only subject to the tax imposed by this article if the purchaser has permanent use of the specified digital product. A vendor who purchases specified digital products for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition in whole or in part to another person shall be considered a wholesaler and not subject to the tax imposed by this article. Those services provided by a trade association as part of a member benefit are not subject to the tax imposed by this subparagraph. The liability is not extinguished until the tax has been paid to the state but a receipt given to the person by a registered vendor in accordance with paragraph (c)(i) of this section is sufficient to relieve the purchaser from further liability;

(ii) Specified digital products sold, services to repair, alter or improve tangible personal property sold and tangible personal property sold by any person for delivery in this state or where first use of the service occurs in this state is deemed sold for storage, use or consumption herein and is subject to the tax imposed by this article unless the person selling the property has received from the purchaser a signed certificate stating the property or service was purchased for resale and showing his name and address. Specified digital products are only subject to

the tax imposes by this article as specified in paragraph (i) of this subsection;”

*WY Dept of Rev Rules, Chap 2, Sec 7(b)(i)*

Certificates of Exemption. Vendors shall obtain completed exemption certificates for all sales transactions, other than those qualifying under section 6 of these rules, where sales tax is not collected from the purchaser at the time of sale. Purchasers shall file a single exemption certificate with each selling vendor for exempt purchases made. The certificates shall be in a format as prescribed by the Streamlined Sales and Use Tax Agreement and shall be retained in the selling vendor’s records. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase. A purchaser is not required to provide a signature to claim an exemption from tax unless the paper exemption certificate is used. The seller shall use the standard format for claiming an exemption electronically when that format is adopted by the Governing Board of the Streamlined Sales Tax Project.