

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@wy.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 April 1, 2011 there are the following sales, use and lodging tax rate changes in Wyoming.

- Goshen County's sales/use tax rate will increase to 5.25%.
- The sales/use tax rate for Sweetwater County will increase to 6%.
- Washakie County's sales/use tax rate will increase to 6%.

➤ Teton County will impose a lodging tax of 2%.

➤ Fremont County's lodging tax rate will increase to 4%.

• Effective April 1, 2011 the combined sales and lodging tax rate for Goshen County will be 9.25%.

• Effective April 1, 2011 the combined sales and lodging tax rate for Sweetwater County will be 8%.

• Effective April 1, 2011 the combined sales and lodging tax rate for Washakie County will be 10%.

• Effective April 1, 2011 the combined sales and lodging tax rate for Teton County will be 8%.

• Effective April 1, 2011 the combined sales, resort district and lodging tax rate for **Teton Village Resort District** will be 10%.

• Effective April 1, 2011 the combined sales and lodging tax rate for Fremont County will be 8%.

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.

The department is not aware of any sales, use or lodging tax rate changes for the tax return quarter beginning July 1, 2011.

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, 2011 that the department has not been notified of to date. You can access our tax rate charts on line at

<http://revenue.state.wy.us> by clicking on the "Publications" tab in the red banner. Then scroll to "Sales and Use Tax Rates." 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.

Legislative Update:

The 61st Wyoming Legislative Session adjourned March 3, 2011. For sales and use tax purposes five new bills became law.

**House Bill 60 (Enrolled Act No. 4)
Effective February 15, 2011**

This bill clarifies the imposition of tax on materials and supplies used in services rendered within an oil or gas well site. The new language found in W.S. 39-15-103(a)(i)(K) imposes tax on "The sales price paid for all services and tangible personal property used in rendering services to real or tangible personal property within an oil or gas well site..." The new language goes on to explain that the provision of W.S. 39-15-301 through 39-15-311 and W. S. 39-16-301 through 39-16-311 (contractor law) do not apply to this subparagraph. This language was added simply to clarify the manner in which the department has administered this statute since its inception. Simply stated any materials used within the well site to perform services are taxable sales of tangible personal property.

**Senate File 99 (Enrolled Act No. 30)
Effective July 1, 2011**

This new law provides for the definition of "Food for domestic home consumption." Since July 1, 2006 the definition of food for domestic home consumption has resided in the Department of Revenue Rules. The current rules state that food sold from

vending machines is excluded from the definition of food for home consumption and therefore subject to sales tax. This new law removes the exclusion of food sold through vending machines and therefore as of July 1, 2011 food sold through vending machines will also be exempt from sales tax, provided that the food sold meets the definition of "Food for domestic home consumption." According to W.S. 39-15-101(a)(xli) "Food for domestic home consumption" means substances whether in liquid, concentrated, solid, frozen, dried or dehydrated form that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food for domestic home consumption" does not include alcoholic beverages, tobacco or prepared foods; The statute goes on to define prepared food and also clarifies what is not prepared food.

**House Bill 117 (Enrolled Act No. 17)
Effective February 18, 2011**

This new law modifies the requirements for an exemption from sales and use tax for computer software purchased by data processing services centers. The law also provides for additional sales and use tax exemptions and specifies requirements that must be met by the data processing services centers in order to avail themselves of the exemption. The first requirement of this exemption is that the data processing services center must meet the definition as defined in W.S. 39-15-101(a)(xliv). The expanded exemption (subdivision I) allows for the purchase or rental of qualifying prewritten and other computer software, containers for transport, and housing of the computer equipment. For the purchaser to claim the exemption there are several qualifications they must demonstrate to the department that they have met; For the purchase of qualifying prewritten and other computer software and containers for transport and housing of the computer

equipment the purchaser must; Have purchases of qualifying equipment exceeding two million dollars in any calendar year; (1) Have a physical location in the state where the qualifying equipment shall be maintained and operated; (2) Shall make an initial total capital asset investment in a physical location in this state; (a) of not less than five million dollars or has made a capital investment in a physical location in this state of not less than five million dollars in the five years immediately preceding March 5, 2010;

Subdivision II of the expanded exemption allows the qualifying purchaser to purchase or rent uninterruptable power supplies, back-up generators, specialized heating and air conditioning equipment and air quality control equipment used to control the environment necessary for the operation of a data processing services center when the aggregate purchase of the qualifying equipment exceeds two million dollars in any calendar year; To claim the portion of the exemption found in subdivision II of this exemption the purchaser must demonstrate those items listed as (1) and (2) above, and also must (b) make a total capital asset investment in a physical location in this state of not less than fifty million dollars or has made a capital investment in a physical location in this state of not less than fifty million dollars in the five years immediately preceding April 1, 2011.

**House Bill 143 (Enrolled Act No. 43)
Effective July 1, 2011**

This bill extends the sales and use tax exemption for qualifying manufacturing machinery until December 31, 2017.

**House Bill 147 (Enrolled Act No. 96)
Effective March 10, 2011**

This new law provides for a credit to vendors or direct payers for the

collection and remittance of sales and use taxes. Beginning with the tax returns for January 2012, vendors will be allowed to take a credit of 1.95% of the amount of tax due for the first \$6,250.00 of tax due and 1% of the amount of tax due for any amount exceeding \$6,250.00 when the tax is paid on or before the fifteenth (15) day of the month the tax is due. The amount of credit allowed shall not exceed \$500.00 in any month. Example: Tax due for January 2012, must be paid on or before the 15th day of February 2012 to qualify for the vendor compensation.

The department is in the process of writing rules for this new compensation allowance. Please review upcoming issues of the Taxing Issues for additional information.

Please note: For the complete text of the new laws passed in the Sixty First Legislative Session please visit the following website, <http://legisweb.state.wy.us>.

Important information concerning our new sales tax computer system:

Our new computer system is nearing completion and we are due to start integration testing in the near future. Our current plan is to have our system up and running July 1, 2011, to process the May 2011 sales and use tax returns. This means that vendors will receive new sales/use tax returns for the May 2011 reporting period. We will soon have information available on our schedule of training sessions throughout the state. Once the new system is up and running we will begin work on incorporating vendor compensation into the forms and the new system.