



TAXING ISSUES

WYOMING DEPARTMENT OF REVENUE

Vol. 13 Quarter 2

Excise Tax Division

June 2010

*Excise Tax Division Newsletter
Herschler Building
122 W. 25th Street
Cheyenne, WY 82002-0110*

*Director
Edmund J. Schmidt*

*Staff
Daniel W. Noble, Administrator
Donna Campbell, Vendor Operations
Manager
Terri Lucero, Taxpayer Services Manager*

Phone (307) 777-5200

FAX (307) 777-3632

Internet Address:

<http://revenue.state.wy.us>

In This Issue:

- *Tax Rate Changes*
- *Specified Digital Products*
- *Refund Information*
- *Freight Charges*
- *Gift Card Sales*
- *Educational Information*

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 July 1, 2010 there will be one (1) sales, use and lodging tax rate change.

- Albany County's sales/use tax rate will decrease to 5%.
- ** Effective July 1, 2010 the combined sales and lodging tax rate for Albany County will be 9%.

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.

Effective with the tax return quarter beginning October 1, 2010 there will be the following sales, use and lodging tax rate changes in Wyoming.

- Albany County's voters approved a 1% Specific Purpose Option tax. Therefore effective October 1, 2010 the sales/use tax rate in Albany County will increase to 6%.
- The Town of Pinedale voters approved a 3% lodging tax in an election held May 4, 2010. Therefore effective October 1, 2010 the lodging tax rate in the Town of Pinedale will be 3%.

** Effective October 1, 2010 the combine sales and lodging tax rate for lodging services in the Town of Pinedale will be 7%.

** Effective October 1, 2010 the combined sales and lodging tax rate for Albany County will be 10%.

It is prudent to periodically check our website for notices of tax rate changes. It is possible that there will be other rate changes effective October 1, 2010 that the department has not been notified of to date. You

can access 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 Rates." We also have added 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.

Taxation of Specified Digital Products:

The Wyoming Statutes define specified digital products as the following products transferred electronically:

"Digital audio-visual works," Digital audio works," and Digital books." Effective July 1, 2010 W.S. 39-15-103(a)(i)(P) imposes tax on, the sales price of every retail sale of specified digital products within the state, when the purchaser has permanent use of the specified digital product. These products are not taxable when the purchaser does not have permanent use or if the product is purchased by a vendor for further commercial broadcast, transmission, licensing, distribution or exhibition in whole or in part. These purchases are considered wholesale in nature.

This statute does not impose tax on any items that were not taxed prior to July 1, 2010. These products such as ringtones, CD's, DVD's, and digital books were previously taxed as tangible personal property. These items are now defined as "Specified digital products" in our statutes and tax is imposed on them under a separate imposition statute as listed above.

Based on the above imposition statute as of July 1, 2010, Paper-per-view movies are no longer taxable as the tax imposed statute for specified

digital products does not include these products, as the purchaser does not receive permanent use of the movie.

Refunds of sales tax paid erroneously:

As a vendor there may be times that your customers request a refund of sales tax paid on a purchase where the tax was paid erroneously. It is possible that the customer may have been able to avail themselves of an exemption for the purchase and at the time of purchase neglected to supply the vendor with the proper documentation to support the exemption. In that case the vendor would have charged the customer tax. In these instances if the customer is able to supply the vendor with a properly completed Streamlined Sales Tax Agreement Certificate of Exemption, the vendor may refund the tax. Per W.S.39-15-109(b)(ii) the vendor who originally collected the tax must be the party to refund the tax to the customer.

The vendor can then request a credit or refund from the department in one of two ways. The vendor would either amend the return where the original tax was paid, or the vendor can take the credit against a subsequent liability with the department. Either is acceptable, however we caution vendors to maintain adequate records to support the method chosen.

The department is unable to refund tax to a taxpayer that did not remit the tax directly to the department.

Please note: No credit or refund shall be allowed after three (3) years from the date of overpayment.

In-bound and out-bound freight and transportation charges:

In-bound freight charges are incurred by the vendor in order to get the products on the vendors' shelves for sale. These charges become a component of the sales price. This price includes not only the seller's cost of the property sold, materials used, labor or service costs, interest and losses but also includes among

other things all cost of transportation to the seller. These are all the expenses you as the seller view in order to determine your final sales price of the item. Therefore in-bound freight is subject to sales tax.

Out-bound freight charges are incurred by the buyer to get the product delivered to the location of their choosing. Out-bound freight charges are not subject to Wyoming sales tax, per W.S. 39-15-105(a)(i)(A) and W.S.39-15-105(a)(viii)(A)(II). These out-bound freight charges must be separately stated from any taxable item on the invoice.

Sales of gift cards and gift certificates:

We have received numerous questions recently concerning the sale of gift cards and or gift certificates. The sale of gift cards or certificates is not subject to sales tax at the time of purchase. We consider a purchase of a gift card to be an exchange of intangible personal property, money for a card with a money equivalent. If a sales tax issue arises, it does so, in a subsequent transaction when the gift card is redeemed. Sales tax may or may not apply in the subsequent transaction depending on whether the purchase is an enumerated taxable event in the Wyoming Sales Tax Statutes.

Taxability Questions:

The department is always happy to answer questions concerning any taxability questions you may have. However we do request that you put your questions in writing. This request is by department policy and is for your protection. When questions are received in writing we have the ability to research the issue to ensure that we have all the required information to answer the question accurately and completely. Receiving the question in writing also ensures we have a clear understanding of the question posed and enables the

department to ask for additional information when necessary. Then when you receive your written response you have something you can rely on. If you simply received an answer over the phone you have nothing to rely in the future should you need it. If you have questions concerning the taxability of your business please e-mail your questions to us at dor_taxability@wy.gov.

Upcoming Education Seminars:

We will be conducting four free sales/use tax seminars in Gillette on June 16th and 17th. We will conduct a General Sales/Use Tax Seminar from 9:00 AM to 12:00 PM and a Mining Seminar from 2:00 PM to 4:00 PM on Wednesday June 16th. On June 17th we will conduct a Contractor Seminar from 9:00 AM to 11:30 AM and an Oil, Conventional Natural Gas and Coal Bed Methane Seminar from 1:00 PM to 4:00 PM. All seminars are to be held in the Tech Center, Room 213 of the Gillette College. In July 2010 we will be conducting seminars in Rock Springs on the 20th and 21st. We will also be conducting seminars in Worland in August. Please see our website at <http://revenue.state.wy.us> for more information on these Seminars.

Field Offices:

The area code prefix is 307 for all of our field offices.

Casper	266-3621
Cheyenne	777-5211
Gillette	682-6061
Lander	332-3370
Laramie	742-4207
Powell	754-2686
Rock Springs	382-4531
Sheridan	674-8559
Jackson	734-9354
Torrington	532-5566