



# Sales and Use Tax Guidelines for Oil, Conventional Natural Gas and Coal Bed Methane Industries

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Wyoming Department of Revenue

The oil and gas industry faces some very unique challenges when it comes to the application of Wyoming sales tax. Beginning with a history of how sales and use tax came to apply to these services, this publication will outline both the imposition and exemption statute as they are currently administered. The publication will follow the lifecycle of a well and address many of the most commonly asked questions that arise in the industry.

Those persons, who provide services within the well site of an oil or gas well, at any time during the lifecycle of the well, are vendors and are required to obtain a Wyoming sales/use tax license from the Department prior to conducting business in our state. For assistance in obtaining a Wyoming Sales/Use Tax License please contact our Vendor Operations Section at (307) 777-5200. In addition, vendors are also required to collect and remit Wyoming sales/use tax on all of their taxable sales and purchases. Further discussion of these requirements is discussed below.

## History

For years many have referred to Wyoming's statute governing the taxability of oil and gas services as "Special K." This moniker refers to the statutory citation, W.S. 39-15-

103(a)(i)(K). The origin of this statute is traced to 1967 when it was enacted into law as part of a broader statute imposing sales tax on various services. The 1967 law, in referring to "and all other services," states it is "not to include services of professional engineers, geologists or members of similar professions in completing or attempting to complete any well for the production of oil or gas..." Oil and gas taxation remained unchanged between 1967 and 1977 when the previous statute was split into two statutes. The 1977 law, in referring to "and all other services," lacked the language "*not* to include services of professional engineers, geologists or members of similar professions." By removing this language from the 1977 law, services in completing or attempting to complete any well for the production of oil or gas, etc. became taxable.

The statute continued in this manner until 1998, when the legislature re-codified the statutes, essentially reorganizing and renumbering them. But the content of the statute was unchanged until the 2002 Legislature revised and amended the statute creating a zone of taxation and adopting a 'bright line' to highlight the beginning and ending points of taxation. The Legislature acted again in 2011, adding clarifying language that the materials already taxable

to the customer, remain so and clarified that those who are working within the well site are vendors as contractor law does not apply.

Most recently, the legislature acted to amend the definition of a well site. This change was necessary to maintain relevance with innovations in the oil and gas industry and takes into consideration that technologies and practices differ significantly in 2015 from years past. Moving away from the previous idea that a well site was best described as an arbitrary distance from the center of the well bore, with significant input from the industry a well site is now defined as "...an area where production equipment is installed to store or prepare oil or gas for transportation off the well site. Production equipment includes, but is not limited to, wellheads, valves, tanks, dehydrators, heater-treaters, separators, flow lines, meters, flares, vapor recovery units and emission equipment. Except as provided in this paragraph, production equipment for purposes of defining a well site shall not include compressors, off well site gathering lines and processing facilities."

As it is currently worded, W.S. 39-15-103(a)(i) states "Except as provided by W.S. 39-15-105, there is levied an excise tax upon... (K) 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 beginning with and including the setting and cementing of production casing, or if production casing is not set as in the case of an open hole completion, after the completion of the underreaming or the attainment of total depth of the oil or gas well and continuing with all activities sequentially required for the production of any oil or gas well regardless of the chronological occurrence of the activity. All

services required during the entire productive life of the well, including recompletion, all the way through abandonment shall be subject to this subparagraph. The provisions of W.S. 39-15-301 through 39-15-311 and W.S. 39-16-304 through 39-16-311 shall not apply to this subparagraph;"

When the Legislature amended the imposition statute in 2002, they also created an exemption as well. This statute was later amended in 2006 to address exemption for the deepening or extending of any oil or gas well previously drilled. As it is currently administered, W.S. 39-15-105(a)(viii) states "For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt... (B) Sales of the services of professional engineers, geologists or members of similar professions including the sales price paid for all services to real or tangible personal property leading to building location, drilling and all related activities that must be completed prior to setting the production casing, including coring, logging and testing done prior to the setting of production casing for the drilling of any oil or gas well or for the deepening or extending of any well previously drilled for oil or gas beyond the maximum point to which they were initially drilled. The exemption in this subparagraph shall also apply to any and all seismographic and geophysical surveying, stratigraphic testing, coring, logging and testing calculated to reveal the existence of geologic conditions favorable to the accumulation of oil or gas;"

### **Lifecycle**

An oil or gas well is considered to have a lifecycle. In other words it is expected that certain events will occur in a certain order. Logically exploration is the initial step. It is

followed by drilling once conditions are found to be favorable to the accumulation of oil or gas. These steps are considered the pre-production casing phase. The well then transitions to the production casing phase. This phase starts with setting and cementing of production casing, or if production casing is not set as in the case of an open hole completion, after the completion of the underreaming or the attainment of total depth of the oil or gas well and continues through the entire productive life of the well. The production casing phase also includes maintenance and abandonment activities. It is only once the Wyoming Oil and Gas Conservation Commission has certified a well permanently abandoned that the production casing phase is concluded.

#### **Pre-Production Casing Phase**

As noted above, the imposition and exemption statutes work together to create the beginning and ending points of taxation which the Department has termed the production casing phase and the pre-production casing phase. Expanding on this somewhat some of the services rendered within the pre-production casing phase are exploration, seismographic and geophysical activities, well site development, bringing power to the site, locating power poles, dirt work, rigging up, drilling, coring, logging and testing. These exempt services are necessary to occur prior to the setting and cementing of production casing in all instances except for open hole completions. For open hole completions, oil and gas services are exempt from tax until after the completion of the underreaming or attainment of total depth of the oil or gas well. All oil and gas services rendered during this phase which are associated with building the location and drilling are exempt from sales tax per W.S. 39-15-105(a)(viii)(B). Please note this exemption

only refers to the service (i.e. labor) being performed and does not relate to sales or leases which may occur separately or in conjunction with a service rendered during this phase. Furthermore, the exemption found at W.S. 39-15-105(a)(viii)(B) does not cover services or repairs made on tangible personal property at the yard, shop or any location not within the oil or gas well site.

Because the exemption for services does not apply to the tangible personal property (e.g. materials and supplies) used in rendering the service, it is necessary for service providers to separately state and distinguish their taxable charges from charges that are exempt. For example the sale of drilling mud is taxable to the consumer receiving the service but the service (i.e. labor charge) for drilling is exempt. If the invoice is presented with a line item charge for mud components apart from a charge for drilling hours, then only the mud components are subject to tax. In contrast, if the service provider charges a single price for drilling to include the mud then the entire charge is taxable. It is not sufficient that the charges can be broken down internally; they must be evident on the bill of sale, invoice or similar document exchanged between parties and those records also available to an auditor in the event of an audit.

So to recap, the following applies in the pre-production casing phase:

1. Contract seismographic, geophysical or other geophysical exploration operations are exempt under the “seismographic and geophysical surveying, stratigraphic testing, coring, logging and testing” provision of W.S. 39-15-105(a)(viii)(B).
2. Contract seismographic surveying elements:

- a. Drilling: The drilling of test or core holes to determine geologic information is exempt in accordance with the “seismographic and geophysical surveying, stratigraphic testing, coring, logging and testing” provision of W.S. 39-15-105(a)(viii)(B). This statute covers all other pre-drilling at oil or gas well sites.
  - b. Weather incurred stand-by time: Stand-by time associated with exempt services is not subject to sales tax. Stand-by time associated with taxable services is subject to sales tax.
  - c. Permit agent: (obtain required permits). This category does not fall within tax imposed statutes. Not subject to sales tax.
  - d. Archeological services: (identification/evaluation of “cultural resources” located in the area of seismic testing, as required by government regulations). This category does not fall within tax imposed statutes. Not subject to sales tax.
3. The taking of formation core samples during the drilling of a potential oil or gas well is exempt under the “...coring...” provision of W.S. 39-15-105(a)(viii)(B).
  4. Well logging is a record of the formations penetrated by a well, their depth, thickness and possibly their contents. As an evaluation technique to measure formation properties during the pre-production casing phase, this service is exempt under the “...logging...” provision of W.S. 39-15-105(a)(viii)(B).
  5. Conducting temperature survey logs, Gamma Ray logs, and cement bond logs during the pre-production casing phase are exempt under the “...logging...” provision of W.S. 39-15-105(a)(viii)(B).
  6. Drill stem testing (DST) to determine the potential of a producing formation is exempt under the “...testing...” provision of W.S. 39-15-105(a)(viii)(B).
  7. Water testing is exempt per the “...testing...” provision of W.S. 39-15-105(a)(viii)(B).
  8. Soil compaction at the well site is tax exempt if performed during the pre-production casing phase under the “...building location...” provision of W.S. 39-15-105(a)(viii)(B).
  9. Dirt work within an oil or gas well site is exempt under the “building location” provision of W.S. 39-15-105(a)(viii)(B).
  10. Digging reserve pits and cellars is exempt under the “building location” provision of W.S. 39-15-105(a)(viii)(B) when occurring in the pre-production casing phase.
  11. Additional services within the well site such as installing plastic lining, netting cover, and fencing are exempt under the “building location” provision of W.S. 39-15-105(a)(viii)(B). The plastic lining, netting cover and fencing themselves are not protected by the exemption and are taxable to the consumer receiving the service.
  12. The installation of electrical power poles and lines within the well site that are necessary to service drilling rigs and pre-production activities is exempt under the “building location” provision of W.S. 39-15-105 (a)(viii)(B). The power poles and lines are not protected by the exemption and those poles and lines located within the well site

are taxable to the consumer receiving the service.

13. Weed spraying is not subject to sales tax if performed during the pre-production casing phase under the “building location” provision of W.S. 39-15-105(a)(viii)(B). However the weed spray agent is not protected by the exemption and is taxable to the consumer receiving the service.

14. Sanitation services and chemical toilet maintenance during the preproduction casing phase are not subject to sales tax.

15. Mowing is not subject to sales tax during the pre-production casing phase.

16. The construction of berms situated around production equipment as a containment aid in event of a spill during the pre-production casing phase is exempt under the “...building location...” provision of W.S. 39-15-105 (a)(viii)(B).

17. Conductor pipe is placed in the ground in the middle of a cellar at the well site in the pre-production casing phase before moving in the rig. As the drilling of this hole and inserting of the conductor pipe is a necessary first step for the rotary rig to drill the remainder of the hole, the service of placing the pipe is tax exempt under the “...drilling...” provision of W.S. 39-15-105(a)(viii)(B) but the pipe and materials consumed in the service are taxable to the consumer receiving the service.

18. Work performed in the preparation of ratholes, mouseholes and conductor holes are considered as integral to drilling. As such, these services are exempt in accordance with the “...drilling...” provision of W.S. 39-15-105(a)(viii)(B). Again any materials or supplies used in rendering the

service are taxable to the consumer receiving the service.

19. Transportation of drilling rigs within or outside of Wyoming, including charges for movement or conveyance of the drilling rig to a well site and the loading, unloading, assembly and disassembly of the drilling rig are all exempt. Rigging up, includes, but is not limited to, the installation of the substructure, the installation of the rig floor, the raising of the mast or derrick, the installation of engines to power the rigs, setting up of tanks or pits for drilling mud, the connection of pumps to move mud down the hole, the erecting of safe stairways and walkways to allow access to components, the positioning of auxiliary equipment for generating electricity, compressing air, and pumping water. It includes the services of truck drivers and swamper who bring in storage racks, bins, and living quarters for the company representative and the toolpusher. It includes the delivery of drill pipe, bits, mud components, wire rope and other items to the location. It includes the erection of the doghouse on the rig floor.

20. The hauling of scoria, in any phase of the well life, is exempt under Wyoming statutes that exempt transportation of freight from sales tax. However, the scoria is not protected by the exemption and scoria placed within the well site is taxable to the consumer receiving the service.

21. The service of setting and cementing of surface and intermediate casing (or lining) in oil, conventional natural gas and coal bed methane wells is exempt from sales tax. But the casing itself is not protected by the exemption. The casing/lining is taxable to the consumer receiving the service.

22. For open hole completions, W.S. 39-15-103(a)(i)(K) does not impose sales tax on

services until after the completion of the underreaming or the attainment of total depth of the oil or gas well. Such open hole completions are common in the coal bed methane context. As a result, any casing set and cemented prior to underreaming is not a taxable service. The sale of casing or cement is, however, subject to sales tax to the consumer receiving the service.

23. Underreaming for coal bed methane wells is exempt as fitting the "...drilling..." provision of W.S. 39-15-105 (a)(viii)(B).

24. "Blowing the hole" is a coal bed methane operation conducted with the drilling rig still in place over the bore hole and high pressure air is pumped down hole to remove the broken pieces of coal and formation rock following the underreaming. This is done to minimize the occurrence of broken material from clogging the bore hole during production. Blowing the hole is a necessary and integral part of the underreaming of a coal bed methane well and is not subject to sales tax under W.S. 39-15-105(a)(viii)(B).

25. We have administered directional drilling and horizontal drilling as fitting the "...drilling..." provision of W.S. 39-15-105 (a)(viii)(B) thus they are tax exempt.

26. Rig hours are the hours used to drill a well. Rig hour charges by professional engineers, geologists or members of similar professions for drilling an oil or gas well are exempt under W.S. 39-15-105(a)(viii)(B).

27. The sale of water, hauling and charges for loading/unloading water at a well site for drilling operations is exempt from Wyoming sales tax. (See also Contract Pumper and Water Hauler Apportioned Invoicing below)

28. Sales of drilling fluids (drilling mud) brought to site, prior to and during drilling operations, are subject to sales/use tax. If separately stated from the drilling fluids, interstate or intrastate delivery of the mud components is exempt from Wyoming sales tax.

29. Purchase, rental or lease of a rig is subject to sales tax.

30. Leasing water well pumps to those rendering services at coal bed methane drilling sites is taxable. The taxable lease is independent of exempt drilling services.

31. If pickup and delivery or moving of rental equipment are not separately stated from the gross rental of tangible personal property then these charges are taxable. If, however, these charges are separately stated, they are not taxable.

32. The rental of a core barrel assembly is taxable.

33. The sale, or rental, of core bits and core catchers is taxable.

34. Blow-Out Preventer (BOP) installation and testing is exempt under W.S. 39-15-105(a)(viii)(B) as such devices are installed prior to the setting and cementing of production casing. Diverter systems have been required on coal bed methane wells since November 15, 2000 and their installation and testing is also exempt. While installation and servicing of these systems is exempt, purchases of these items are subject to sales tax to the end consumer.

35. "Fishing" services are essential to drilling operations because a tool lost in the hole must be recovered before the driller can continue with drilling. This service most often occurs during drilling and therefore is

exempt under the “...all related activities that must be completed...” provision of W.S. 39-15-105(a)(viii)(B). On occasion, tools may be lost down hole during work over repairs or services during the production phase. In that event, “fishing” services are taxable under the provisions of W.S. 39-15-103(a)(i)(K), fully cited above.

### **Production Casing Phase**

The pre-production casing phase ends and the production casing phase begins with the setting and cementing of production casing, or if production casing is not set as in the case of an open hole completion, after the completion of the underreaming or the attainment of total depth of the oil or gas well and carries all the way through abandonment. All oil or gas services rendered within the well site during this phase are subject to sales tax.

Every oil or gas well in Wyoming, even a dry hole, transitions from the pre-production casing phase into the production casing phase. One of the three triggers for the production casing phase is attainment of total well depth. A well need never actually produce oil or gas. In addition note that the Department’s use of the term production casing phase is not a reference to the point when oil or gas is actually produced. The term production means the first barrel of oil or the first MCF of gas for market, and occurs well after the production casing phase has commenced.

Please note, an important provision in W.S. 39-15-103(a)(i)(K) is the phrase “...and continuing with all activities sequentially required for the production of any oil or gas well regardless of the chronological occurrence of the activity...” As defined by Departmental rule, activities sequentially required means “services in an oil or gas well site that occur in the following order:

Exploration, drilling, completion, production, maintenance and abandonment of the well site. This order is maintained for taxability regardless of the chronological order of occurrences.” Thus, the taxability of an event is determined by where it occurs in this sequence regardless of its chronological order of occurrence. For example, a service company installing flow or gathering lines within the well site cannot avoid paying taxes by doing the work during the pre-production casing phase. The “...activities sequentially required...” provision states that, inasmuch as the installation of the flow or gathering lines would normally occur during the production casing phase since they are associated with production, such work is subject to sales tax.

So to recap, the following applies to materials used and services performed in the well site of an oil or gas well in the production casing phase:

1. Seed and labor to sow seed at an oil or gas well site are taxable.
2. Services of measuring gas flows and gas sampling from producing wells are subject to sales tax if they are done within an oil or gas well site.
3. Removal of contaminated soil, garbage, trash, tires, etc. from a well site during the production casing phase is subject to sales tax.
4. Mowing during the production casing phase is subject to sales tax.
5. Reclamation services to abandon an oil or gas well site are subject to sales tax.
6. Thawing out/sucking out flow lines are taxable services.



7. Installing a pump, motor or wire drop pipe in a coal bed methane well, including parts and labor, are taxable after the well has been underreamed.

8. Coiled tubing (i.e. a continuous length of flexible steel pipe) inserted into an oil or gas well to begin production occurs as part of completion of the well and is taxable.

9. Precision line testing and tank integrity testing within an oil or gas well site are taxable.

10. Pressure testing of gathering/flow systems within an oil or gas well site is subject to sales tax.

11. The sale of water and hauling to and from a well site is exempt if separately stated from any taxable charges on the same invoice; but charges for loading/unloading water at a well site in the production casing phase are taxable. (See also Contract Pumper and Water Hauler Apportioned Invoicing below)

12. Fracing services are taxable. Although a well may not be producing at the time a frac service is rendered, the well is in the production casing phase as a frac service is related to production on the well.

13. The pumping of frac tanks is conducted during the production casing phase. As such the pumping and subsequent repairs of these tanks are subject to taxation.

14. Cathodic well protection systems are installed to alleviate and redirect accumulated electrical charges from the well casing. Such a deep grounded system involves the drilling of holes, adjacent to the production well bore, through which the anodes are installed. As such, these services occur after the setting and cementing of

production casing and are within an oil or gas well site. Such services are subject to sales tax.

15. The installation of dead-man anchors, which we understand to normally be pieces of wood or concrete, usually buried, to which a wire guy line is attached for bracing of a rig or tower, during the production casing phase is a taxable oil or gas service.

16. Work performed in the “reclamation service” to sucker rods, i.e., sandblasting, applying corrosion inhibitors, and straightening, is a taxable service.

17. We understand that “neutralizing a well” means to push the gas back down the hole until it goes to a vacuum. The hole is then kept full of water to keep the gas from coming back while the well is being worked on. This is a taxable service performed within an oil or gas well site during in the production casing phase thus it is a taxable service per W.S. 39-15-103(a)(i)(K).

18. Chart integration consists of assembling information provided by a customer into reports of natural gas flow. If this service is provided within an oil or gas well site, then the service is subject to sale tax under W.S. 39-15-103(a)(i)(K).

19. Oil soluble chemicals that are added to crude oil following extraction qualify for the ingredient and component exemption per W.S. 39-15-105(a)(iii)(A). As such, they are not taxable. Note that oil soluble chemicals injected into the well bore to enhance the recovery of oil or to benefit the downhole operations do not fit within the ingredient or component exemption per *In the Matter of the Appeal of Merit Energy Company from a decision of the Department of Revenue, Docket No. 96-86, (March, 1998)*.



### **Tools Lost Down Hole or Damaged Beyond Repair**

As noted above, the taxability of fishing charges is fluid, meaning that when the fishing service is rendered during the pre-production casing phase charges for fishing services are not subject to Wyoming sales tax and when rendered during the production casing phase charges for fishing services are taxable. While this does not impact the taxability of tools purchased or rented to perform a fishing service as they are still taxable business purchases/rentals in order to perform a service, it does impact charges for the equipment that was initially lost down hole necessitating the fishing service in the first place.

Historically the Department viewed tools lost down hole or damaged beyond repair to be a sale of tangible personal property. The old adage of “you break it, you bought it” seemed reasonable. There is nothing in the Wyoming Statutes that requires that a tool be recoverable or in a usable condition for a sale to occur and since compensation is being offered for the value of the tool, a transfer of constructive possession is positively arguable. However the Department re-evaluated this stand in 2014 and determined rather than to consider the argument from the perspective of constructive possession it is also reasonable to consider it from the perspective of the service provider who lost the tool, a fee for loss or damage merely raises the price of the service being rendered. As a result effective April 15, 2014, charges for tools lost down hole or charges for tools damaged beyond repair by a service provider as part of the price of an oil or gas well site service are treated with the same fluidity that the fishing service is treated.

Charges by a service provider for tools lost down hole or charges for tools damaged

beyond repair as part of the price of an oil or gas well site service during the preproduction casing phase are exempt from Wyoming sales tax; and charges by a service provider for tools lost down hole or charges for tools damaged beyond repair as part of the price of an oil or gas well site service during the production casing phase are taxable.

### **Compressors**

Over the past several years there has been an issue raised on several occasions regarding the taxability of work done on compressors in gas field applications. These compressors range in size from small inline units to massive engines which move large quantities of gas in transportation systems. Since compressors are specifically excluded from the definition of production equipment for the purposes of defining a well site, services to compressors cannot be governed by W.S. 39-15-103(a)i)(K). Therefore, all compressors must be evaluated to determine if they are real property or tangible personal property and a determination of tax made accordingly. To aid in this determination we offer the following definitions for assistance.

W.S. 39-15-101(a)(v) states "Real property" means land and appurtenances, including structures affixed thereto. An article shall be considered real property if:

- (A) It is buried or embedded; or
- (B) It is physically or constructively annexed to the real property; and
- (C) It is adapted to the use of the real property; and
- (D) Considering the purpose for which the annexation was made, one can reasonably infer that it was the intent of the annexing party to make the article a permanent part of the real property.

The definition of real property is both a statement and a test. The first sentence of the real property definition states that the item must be land, an appurtenance to the land or a structure affixed thereto. Examples of real property which meet the statement portion of the definition include but are not limited to unimproved land, roads, parking lots, foundations, stick-built erected buildings and other complex structures. When an item does not meet the statement portion of the definition we look to the test to determine if the object is an article. In the test, the item in question must either meet part (A) or it must meet parts (B), (C) and (D). A telephone pole meets the test of part (A) because it is embedded in the ground and sometimes concreted in place. However, something like a home furnace would have to be taken through parts (B), (C) and (D) since it is neither land, an appurtenance or a structure nor is it buried or embedded in the land. A home furnace will meet the real property test because it is physically or constructively annexed to the realty. It is hardwired to any electrical, hard plumbed to water or gas lines, and ducted through the walls and ceilings of the structure. This satisfies part (B). Part (C) is satisfied because a home furnace is adapted to the property – it is sized and configured to provide air exchange and heating to a residential property. If the homeowner sold the house it could be expected that the in place furnace would not be substantially changed in order to continue its usefulness. And it can be expected that the intent of the annexing party is to make the furnace permanent for the furnace's useful life which satisfies part (D). In contrast a window wall unit air conditioner or space heater may offer some of the same purposes as a furnace but would not meet the definition of real property because of the lack of annexation required in part (B) and the intended permanence of part (D).

W.S. 39-15-101(a)(ix) states "Tangible personal property" means all personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam and prewritten computer software; and includes any 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);

The reality of this situation is that while many compressors can be considered structures, each compressor is different and the determination of whether a compressor is categorized as a structure, an article or a piece of tangible property depends on the unit itself, the circumstances surrounding its placement, its adaptation to the real property and its permanence. The department will view each determination request on a case by case basis using the above definitions and information found in the *Supreme Court Case S-07-0264 in the matter of State of Wyoming Department of Revenue v. Hannover Compression, LP.*

### **Contract Pumper and Water Hauler Apportioned Invoicing**

The Department of Revenue has been asked on numerous occasions as to the bookkeeping or accounting methods that a contract pumper or water hauler should use in determining their taxable time at an oil or gas well site in conjunction with their non-taxable time, i.e., travel time. The best answer to this issue came from within the oil and gas industry itself. The proposal has such common sense merit and application that we recommend it for use not only by contract pumpers but also water haulers and

others in similar situations in the oil and gas field.

In the preproduction casing phase, the services of filling tanks with water at the well site of an oil is not subject to tax, nor is the transportation charge to haul the water. As a result a water hauler operating in this phase would not indicate tax on his invoice for his service, regardless of the method of invoicing (i.e. per barrel, hour, mileage, etc.) However this is not true in the production casing phase, as any person who performs a service within the well site is performing a taxable service.

During the production casing phase, each contract pumper or water hauler (whether individual or company) should perform a two week time and motion study to document how much of their work day they spend working on wells in the production casing phase (taxable portion) and how much of their time they spend in transit between locations (non-taxable portion). At the end of the two week period, the contract pumper/water hauler should tabulate the results and calculate for each geographical area the average percentage of time spent on well work and the average percentage of time spent in transit between locations (for example, in one area the provider may spend 45% of their time doing well work and 55% of their time in transit).

Once the percentage of taxable time is determined the provider would simply multiply his monthly invoice amount by the average percentage of time spent doing well work (based on the study results) and calculate the sales tax based on this amount.

Total monthly contract pumping/water hauling Invoice	\$100,000
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amount	
Average percentage of time spent doing well Work based on time/motion study	45%
Amount of monthly invoice that is taxable:	\$45,000

The Department of Revenue endorses this proposal with four caveats related to seasonality, new fields or contracts, documentation, and periodic assessment.

**Seasonality** – Wyoming weather can greatly affect driving time, and thus the results of any study. We request that two time and motion studies be conducted: one in temperate conditions and another during adverse conditions. Contract pumpers and production water haulers would then use the factors relevant to the working conditions. We present a workable scenario that was put forth by an active participant in the oil and gas industry with a working knowledge of contract pumping:

With the knowledge that there are three months out of the year (25% of the time) when adverse weather, mud, etc. are a significant hindrance to the travel time spent by contract pumpers and water haulers: February, March & April, the following plan of action is appropriate to best utilize the above weighted average formula to account for seasonality factors.

1. Do the first time and motion study (for temperate conditions) as soon as possible, calculate the results, and implement this percentage immediately on your invoices.
2. Do the second time and motion study (for harsh conditions), calculate the results, and determine a new percentage.
3. Calculate a "normalized percentage" (or weighted average) as follows:

$$\text{Normalized percentage} = (3 \text{ months}/12 \text{ months}) \times \text{harsh condition percentage} + (9$$

*months/12 months) x temperate condition percentage*

4. Implement the normalized percentage for all invoices, regardless of the month, since the seasonal changes would already be taken into account.

Since a contract pumper and water hauler's invoices are relatively constant from month to month, except for the addition of a few new wells each year, the total taxable amount should end up being the same at the end of the year by using a weighted average as it would be if the provider changed the percentages depending on the month. Keeping track of the seasonal percentages and changing them at the right time of year will likely result in a lot of mistakes that someone will have to catch and correct. The weighted average will eliminate the problem by simply giving providers one number to work with that will be constant throughout the year until the study is updated at some point in the future.

**New fields or contracts** – When a new field opens up, a new study will have to be conducted to account for particularities related to that area.

**Documentation** – The data and results of each time and motion study must be retained for a minimum of three years to be in compliance with W.S 39-15-107(a)(ii), which requires vendors to retain for three (3) years suitable records for audit purposes.

**Periodic assessment** – We suggest that contract pumpers re-evaluate the results of their time and motion studies once every three years, or more frequently as changes in business operations dictate.

Should a contract pumper or water hauler choose not to invoice by apportionment, in the production casing phase he must

separately state his taxable service at the well site from his exempt transportation charge otherwise the entire invoice is subject to tax.

### Sourcing Tax

Wyoming sources, or jurisdictionally assigns, sales tax on the sale of products and services based on the terms “receive” and “receipt” which means taking possession of tangible personal property, making first use of a service, or taking possession or making first use of a digital good, whichever comes first and considering that the terms “receive” and “receipt” do not include possession by a shipping company on behalf of the purchaser.

For the sale of tangible personal property, this means that sales tax is assigned to the location where physical possession transfers, so if a customer travels to the vendor's location, purchases and gains possession of the purchased item at the vendor's location – the vendor correctly charges Wyoming sales tax based on their location. This also means that if the customer does not obtain possession at the vendor's location, tax is assessed based on the location where possession does pass to the purchaser or the purchaser's agent regardless of the shipping terms. For example, a customer that purchases a tool but requests it be delivered by the vendor or arranges for a third party carrier to pick up the tool and deliver it to them at another location would have tax assessed based on the location of delivery.

While the two scenarios above will cover the vast majority of all transactions there are occasions where the vendor may not be aware of the delivery point. This may be due to customer arranged delivery where a Bill of Lading or delivery confirmation/receipt is not provided to the vendor in the transaction. When this is the case, the Department

follows with three additional points that will dictate the assignment of tax. Note that these are progressive and the vendor must assign tax to the first point of knowledge that occurs.

(a) If the customer does not obtain possession of the tangible personal property at the location of the vendor and the vendor does not know where the customer will take possession, the vendor must charge Wyoming sales tax to an address for the purchase that is available from the business records of the seller that is maintained in the ordinary course of business. This essentially means if the vendor is provided with business records for the purchaser, such as a customer agreement between the vendor and purchaser or a purchase order from the purchaser, the vendor must use the purchaser's address on these documents to assign tax if the vendor does not know where delivery will occur.

(b) If the customer does not obtain possession of the tangible personal property at the vendor's location, the vendor does not know where the customer will take possession and also the vendor does not have any suitable business records to determine an address for the purchaser, sales tax is assessed to the location for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument if no other address is available. An example of this is the credit card billing address entered by an online customer or the customer's address as indicated on his banking instrument (check).

(c) Lastly, if the customer does not obtain possession of the tangible personal property at the vendor's location, the vendor does not know where possession will transfer and has no other address for the customer, the

vendor assesses tax based on the location from which the tangible personal property was shipped, e.g. the vendor's location.

To determine the tax rate to collect on a rental of tangible personal property (excluding motor vehicles and transportation equipment) Wyoming sources tax slightly different depending on the payment terms in the lease. For those transactions with only a single payment, tax is still sourced, or assessed, to the location where the customer or his agent first receives or takes receipt of the property and considering that possession does not pass upon possession by a shipping agent, even one acting on behalf of the purchaser. This means if the customer travels to a provider's shop in Casper and picks up a piece of equipment, sales tax would be charged based on the rate in effect in Natrona County at the time of the rental regardless of where it will be used, in-state or out of state. But if the equipment were delivered to the customer at their well site near Gillette then it would be appropriate to assess tax based on the rate in effect in Campbell County. Taking this a step further if rented equipment or tools are shipped outside the state of Wyoming then no Wyoming tax would be due since possession of the rental property does not pass to the customer until it is beyond the borders of our state. The transaction may be subject to tax in the state where the customer takes delivery but that would need to be discussed with the taxing authority of that state for direction.

For those rentals that have reoccurring payments, tax on the first payment is assessed as above and tax on the remaining payments is due based on the primary property location for the equipment or tool during the rental period. To illustrate, a customer rents equipment from a rental provider and picks it up in Casper and takes it to Gillette where it will be stored and used



for an extended period of time and that the agreement has monthly recurring charges. Tax on the first payment is going to be due based on the rate in effect in Natrona County, just as above, but tax on the remainder of the payments will be assessed based on the rate in Campbell County because that is the primary property location of the equipment during the rental period. Note that tax rates are subject to change and this will affect the rate of tax collected on each payment.

For services (i.e. repairs, alterations or improvements to tangible personal property or an oil or gas well site activity) the key point of the statute fixates on the portion of the statute that reads “taking possession of tangible personal property, making first use of services... whichever comes first” and follows the same guides. This means that if a customer takes possession of a serviced item, they need not have the ability to use it at that location where possession passes but that also means that possession does not pass upon completion of the repair itself. To illustrate for those services where a tool is repaired at a shop and the customer picks it up at that location, sales tax is assessed based on the location of the shop because the customer obtains possession there. However if the repairman delivers the tool, or the tool is shipped to the customer then possession does not pass until it is received by the customer or his agent at the delivery location.

**Example 1:** A customer takes a meter to a provider in Sheridan to be calibrated. Once the meter is calibrated the customer returns to the provider’s location to retrieve the meter. The provider charges his customer sales tax based on the rate in Sheridan County. Conveniently the location where the service is rendered is the same location as where the customer receives first use of the service/possession of the repaired tool.

**Example 2:** A customer ships a meter to a provider in Sheridan to be calibrated. Once calibrated the provider ships the meter back to the customer in Gillette. Sales tax is charged based on the Campbell County rate because the customer will receive and make use of the completed service once delivery occurs. Under the same line of thinking if the provider installs the repaired item at the customer’s Gillette location tax would be assessed based on the Campbell County rate as the customer will make first use of the service once the item is installed.

**Example 3:** An out of state customer ships a meter to a provider in Sheridan to be calibrated. Once calibrated the provider ships the meter back to the customer in another state. This transaction is not subject to Wyoming sales tax because the customer will receive and make first use of the completed service once delivery occurs, in that other state.

**Example 4:** An in-state customer ships a meter to an out-of-state provider for calibration. Once calibrated the provider ships the meter back to the customer in Gillette. Sales/use tax is assessed based on the Campbell County location because the customer will receive and make first use of the completed service once delivery occurs in Wyoming. Out of state service providers that are licensed to collect Wyoming sales tax will collect sales tax based on the rate of tax in effect in Campbell County at the time of the transaction and purchasers who have purchased services from a person not licensed to collect Wyoming sales tax are required to self-assess and remit use tax directly to the Department on the sales price of the service rendered.

**Services Performed Outside the Well Site  
Of an Oil or Gas Well**

Until this point we have primarily focused on services performed within the well site of an oil or gas well. But we do recognize that it is often the case that a service provider will perform services not only within the well site but also outside of it. Sales and services to tangible personal property located outside of the well site of an oil or gas well are subject to Wyoming sales tax. The person who performs this service is also defined as a vendor. Vendors are required to collect sales tax from their customers on labor or service charges as well as charges for materials, supplies and fabrication. For example, if a vendor removes and repairs a submersible pump at his shop, not only is the removal and replacement at the well site a taxable service but the pump repair is also taxable.

In contrast, services performed for the repair, alteration, improvement or construction of real property outside of an oil or gas well site is not subject to tax. Regarding his materials and supplies, those are taxable to the service provider purchasing them, defined as a contractor. For example, if a diesel mechanic repairs a compressor determined to be real property, the materials and supplies to affect the repair are taxable to the mechanic and his labor is not subject to tax. The result is an invoice to the compressor owner/operator with tax embedded into the overall price, similar to overhead and profit, but where tax is not evident as a line item on the invoice presented to the customer.

Please note that the Excise Tax Division publishes a quarterly newsletter titled "*Taxing Issues*." This publication is mailed to all licensed vendors and contains items of general interest such as common taxability issues, forthcoming tax rate changes, and legislative changes. Current and past issues of this publication are available on our website, <http://revenue.wyo.gov>.

Please be advised that this publication 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)(v) states:

"Real property" means land and appurtenances, including structures affixed thereto. An article shall be considered real property if:

- (A) It is buried or embedded; or
- (B) It is physically or constructively annexed to the real property; and
- (C) It is adapted to the use of the real property; and
- (D) Considering the purpose for which the annexation was made, one can reasonably infer that it was the intent of the annexing party to make the article a permanent part of the real property.

W.S. 39-15-101(a)(vi) states:

"Retail sale" means any sale, lease or rental for any purpose other than for resale, sublease or subrent;

W.S. 39-15-101(a)(ix) states:

"Tangible personal property" means all personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam and prewritten computer software; and includes any 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. 39-15-101(a)(xi) states:

"Tertiary production" means the crude oil recovered from a petroleum reservoir by means of a tertiary enhanced recovery project to which one (1) or more tertiary enhanced recovery techniques meeting the certification requirements of the Wyoming oil and gas conservation commission or the United States government are being applied;

W.S. 39-15-101(a)(xv) states:

"Vendor" means any person engaged in the business of selling at retail or wholesale tangible personal property, admissions or services which are subject to taxation under this article. "Vendor" includes a vehicle dealer as defined by W.S. 31-16-101(a)(xviii);

W.S. 39-15-101(a)(xvi) states:

"Wholesale sale" means a sale of tangible personal property or services to a vendor for subsequent sale;

W.S. 39-15-101(a)(xvii) states:

"Delivery charge" means a charge by the seller for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, handling, postage, crating and packing;

W.S. 39-15-101(a)(xviii) states:

"Well site" means an area where production equipment is installed to store or prepare oil or gas for transportation off the well site. Production equipment includes, but is not limited to, wellheads, valves, tanks, dehydrators, heater-treaters, separators, flow lines, meters, flares, vapor recovery units and emission equipment. Except as provided

in this paragraph, production equipment for purposes of defining a well site shall not include compressors, off well site gathering lines and processing facilities;

W.S. 39-15-103(a)(i)(A) states:

Taxable event. The following shall apply: Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

(A) The sales price of every retail sale of tangible personal property within the state;

W.S. 39-15-103(a)(i)(B) states:

Taxable event. The following shall apply: Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

(B) The gross rental paid for the lease or contract transferring possession of tangible personal property if the transfer of possession would be taxable if a sale occurred;

W.S. 39-15-103(a)(i)(J) states:

Taxable event. The following shall apply: Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

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

W.S. 39-15-103(a)(i)(K) states:

Taxable event. The following shall apply: Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

(K) 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 beginning with and including the setting and cementing of production casing, or if production casing is not set as in the case of an open hole completion, after the completion of the underreaming or the attainment

of total depth of the oil or gas well and continuing with all activities sequentially required for the production of any oil or gas well regardless of the chronological occurrence of the activity. All services required during the entire productive life of the well, including recompletion, all the way through abandonment shall be subject to this subparagraph. The provisions of W.S. 39-15-301 through 39-15-311 and W.S. 39-16-304 through 39-16-311 shall not apply to this subparagraph;

W.S. 39-15-104(f)(i) states:

The tax rate imposed upon a transaction subject to this chapter shall be sourced as follows:

The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(A) When the product is received by the purchaser at a business location of the seller, the sale shall be sourced to that business location;

(B) When the product is not received by the purchaser at a business location of the seller's, the sale shall be sourced to the location where receipt by the purchaser, or the purchaser's agent designated as such by the purchaser, occurs, including the location indicated by instruction for delivery to the purchaser or donee, known to the seller;

(C) When subparagraphs (A) and (B) of this paragraph do not apply, the sale shall be sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(D) When subparagraphs (A) through (C) of this paragraph do not apply, the sale shall be sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith;

(E) When none of the previous rules of subparagraphs (A) through (D) of this paragraph apply, including the circumstance in which the seller is without sufficient information to apply any of the previous rules, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold;

(F) For the purposes of this paragraph the terms "receive" and "receipt" mean taking possession of tangible personal property, making first use of services or taking possession or making first use of digital goods, whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

W.S. 39-15-104(f)(ii) states:

The tax rate imposed upon a transaction subject to this chapter shall be sourced as follows:

The lease or rental of tangible personal property, other than property identified in paragraph (iii) or (iv) of this subsection, shall be sourced as follows:

(A) For a lease or rental that requires recurring periodic payments, the first periodic payment shall be sourced the same as a retail sale in accordance with the provisions of paragraph (i) of this subsection. Periodic payments made subsequently to the first payment shall be sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of the business property that accompanies employees on business trips and service calls;

(B) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced the same as a retail sale in accordance with the provisions of paragraph (i) of this subsection;

(C) This paragraph shall not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

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

The following sales or leases are exempt from the excise tax imposed by this article: For the purpose of exempting sales of services and tangible personal property protected by federal law, the following are exempt:

(A) Interstate transportation of freight or passengers;

W.S. 39-15-105(a)(iii)(A) states:

The following sales or leases are exempt from the excise tax imposed by this article: For the purpose of exempting sales of services and tangible personal property consumed in production, the following are exempt:

(A) Sales of tangible personal property to a person engaged in the business of manufacturing, processing or compounding when the tangible personal property purchased becomes an ingredient or component of the tangible personal property manufactured, processed or compounded for sale or use and sales of containers, labels or shipping cases used for the tangible personal property so manufactured, processed or compounded. This subparagraph shall apply to chemicals and catalysts used directly in manufacturing, processing or compounding which are consumed or destroyed during that process;

W.S. 39-15-105(a)(vi)(D) states:

The following sales or leases are exempt from the excise tax imposed by this article: For the purpose of exempting sales of services and tangible personal property which are essential human goods and services, the following are exempt:

(D) Sales of water delivered by pipeline or truck;

W.S. 39-15-105(a)(vii)(A) states:

The following sales or leases are exempt from the excise tax imposed by this article: For the purpose of exempting sales of services provided primarily to businesses, the following are exempt:

(A) Interstate or intrastate transportation of drilling rigs, including charges for the movement or conveyance of the drilling rig to

or away from the well site and the loading, unloading, assembly or disassembly of the drilling rig;

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

The following sales or leases are exempt from the excise tax imposed by this article:

For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt:

- (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.

W.S. 39-15-105(a)(viii)(B) states:

The following sales or leases are exempt from the excise tax imposed by this article:

For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt:

- (B) Sales of the services of professional engineers, geologists or members of similar professions including the sales price paid for all services to real or tangible personal property leading to building location, drilling and all coring, logging and testing done prior to the setting of production casing for the drilling of any oil or gas well or for the deepening or extending of any well previously drilled for oil or gas beyond the maximum point to which they were initially drilled. The exemption in this subparagraph shall also apply to any and all seismographic and geophysical surveying, stratigraphic testing, coring, logging and testing

calculated to reveal the existence of geologic conditions favorable to the accumulation of oil or gas;

W.S. 39-15-105(a)(viii)(F) states:

The following sales or leases are exempt from the excise tax imposed by this article:

For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt:

- (F) Sales of carbon dioxide and other gases used in tertiary production;

W.S. 39-15-106(a) states:

Every vendor shall obtain from the department a sales tax license to conduct business in the state. Any out-of-state vendor not otherwise subject to this article may voluntarily apply for a license from the department and if licensed, shall collect and remit the state sales tax imposed by W.S. 39-15-104. The license shall be granted only upon application stating the name and address of the applicant, the character of the business in which the applicant proposes to engage, the location of the proposed business and other information as the department may require. Effective July 1, 1997, a license fee of sixty dollars (\$60.00) shall be required from each new vendor, except for any remote vendor who has no requirement to register in this state, or who is using one (1) of the technology models pursuant to the streamlined sales and use tax agreement. Failure of a vendor to timely file any return may result in forfeiture of the license granted under this section. The department shall charge sixty dollars (\$60.00) for reinstatement of any forfeited license. The department shall send any vendor who reports no gross sales for three (3) consecutive years a form prescribed by the department to show cause why the vendor's license should not be revoked. The

vendor shall complete and file the report with the department within thirty (30) days of receipt of the form. If the department finds just cause for the vendor to retain the license, no further action shall be taken. If the department finds just cause to revoke the license, the vendor shall be notified of the revocation. Any vendor whose license is revoked under this subsection may appeal the decision to the state board of equalization.

W.S. 39-15-107(a)(i) states:

Returns, reports and preservation of records.

The following shall apply:

(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 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. 39-15-107(a)(ii) states:

Returns, reports and preservation of records.

The following shall apply:

(ii) Every vendor and person liable for the payment of sales tax under this article shall preserve for three (3) years at his principal place of business, suitable records and books as may be necessary to determine the amount of tax for which he is liable under this article, together with all invoices and books showing all merchandise purchased for resale. All records, books and invoices shall be available for examination by the department during regular business hours except as arranged by mutual consent;

W.S. 39-16-103(a)(i) states:

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;

W.S. 39-16-103(a)(ii) states:

Taxable event. The following shall apply:

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

*WY Dept. of Rev. Rules, Chap 2, Sec 2(a)* states:

"Abandonment" means all work performed within a well site to cease producing oil and gas from a well when it becomes unprofitable including removal of production equipment, permanent sealing of the wellbore and well site reclamation. Abandonment does not include temporary shut ins of an oil or gas well. Work to shut in oil or gas wells is taxable, and is not an abandonment of a well site.

*WY Dept. of Rev. Rules, Chap 2, Sec 2(b)* states:  
"Activities sequentially required" means services in an oil or gas well site that occur in the following order: Exploration, drilling, completion, production, maintenance and abandonment of the well site. This order is maintained for taxability regardless of the chronological order of occurrences.

*WY Dept. of Rev. Rules, Chap 2, Sec 2(m)* states:

"Drilling" means the act of boring a hole through which oil and/or gas may be produced or encountered in commercial quantities including, but not limited to placement of the rig and setting up of the well site, boring of the hole and placement and cementing of casing to protect the aquifers and removal of the rig upon attainment of the appropriate depth.

*WY Dept. of Rev. Rules, Chap 2, Sec 2(q)* states:

"Gross rental paid as a component of sales price" means the total consideration to enjoy and maintain temporary possession of tangible personal property. Gross rental does not include 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.

*WY Dept. of Rev. Rules, Chap 2, Sec 2(r)* states:

“Maintenance” means any and all work performed at the well site to maintain production of the oil or gas well. This work includes but is not limited to, repairs made to equipment at the well site, the monitoring of activity at the well site and all other activities to maintain production. This definition as stated applies only in taxation of oil or gas operations.

*WY Dept. of Rev. Rules, Chap 2, Sec 2(aa)*  
states:

"Production" means all work performed within a well site to produce an oil or gas well. This phase begins with the production of the first barrel of oil or the first MCF of gas for market and ends once the well is abandoned. This definition as stated applies only in the taxation of oil or gas operations for sales and use tax purposes.

*WY Dept. of Rev. Rules, Chap 2, Sec 2(cc)*  
states:

“Production Casing” means the series of steel pipe lengths, screwed or welded together through which oil and gas flows to the surface.

*WY Dept. of Rev. Rules, Chap 2, Sec 2(ff)*  
states:

“Recompletion” means any downhole operation in an existing oil or gas well that is conducted to establish production of an oil or gas well in any geological interval not currently completed or producing which has been approved as a recompletion by the Wyoming Oil and Gas Conservation Commission.

*WY Dept. of Rev. Rules, Chap 2, Sec 7(a)*  
states:

Non-Taxable and Exempt Sales  
Transactions.

(a) General. Non-taxable transactions, including sales made for resale, shall be shown separately from taxable charges on sales invoices. The entire invoice amount shall be subject to the sales/use tax if the nontaxable or exempt charges are not separately shown and distinguishable from taxable charges.

*WY Dept. of Rev. Rules, Chap 2, Sec 10(d)*  
states:

Contractor Procedure.

(d) Charges for labor to alter, improve, or construct real property are not subject to sales/use tax except where imposed by statute under W.S. 39-15-103(a)(i)(K).

*WY Dept. of Rev. Rules, Chap 2, Sec 13(s)*  
states:

Specific Taxability Issues.

(s) Machine Shops and Welding Services. The gross charges made by machine shops and those engaged in welding upon tangible personal property shall be subject to the sales tax. Gross charges include such charges as labor, parts, and supplies. Purchase of parts, materials, or supplies which become an ingredient of the welding services such as welding rod, acetylene and oxygen, provided by machine shops and welding services when welding upon tangible personal property shall be considered wholesale purchases or sales and therefore exempt from the sales tax.

(i) Charges for welding performed on real property shall not be subject to the sales tax.

*WY Dept. of Rev. Rules, Chap 2, Sec 13(x)*  
states:

Oil and Gas Services.

(i) All seismographic and geophysical surveying, stratigraphic testing, coring logging and testing calculated to reveal the existence of geologic conditions favorable to the



accumulation of oil or gas are nontaxable.

(ii) Invoices billing for oil and gas services shall indicate if the billed services are performed before or after setting and cementing of production casing, or if production casing is not set as in the case of an open hole completion, after the completion of the underreaming or the attaining of total depth of the oil or gas well and shall also state if the billed services are performed within the boundaries of the well site or outside the boundaries of the well site. The invoice shall separately state the taxable and non-taxable services provided or the entire invoice shall be subject to the sales tax.

(iii) Any person engaged in the business of selling oil or gas services within the well site is a "Vendor" and must license and report their taxable and non-taxable services to the department. The tax associated with taxable services must be collected and remitted to the department unless the vendor receives the proper information required from a holder of a direct pay permit.

or service charges for repairs, alterations or improvements of real property are not subject to the sales tax.

(i) Repairs, alterations or improvements performed upon tangible personal property under a warranty, service or similar agreement shall be subject to the sales tax based on the sales price paid for the service. The sale of such an agreement shall not be subject to the sales tax. The consumer shall be liable for the tax on repair charges not covered by the agreement. The issuer of the agreement shall be liable for sales tax on the remainder of the repair charges.

*WY Dept. of Rev. Rules, Chap 2, Sec 13(dd)*  
states:

Repairs, Alterations and Improvements. Labor or service charges for the repair, alteration or improvement of tangible personal property, as well as charges for materials, supplies and fabrication used in rendering such services shall be subject to the sales tax. The purchase of materials, supplies and fabrication which become an ingredient of the repair, alteration or improvement of tangible personal property shall be considered wholesale sales. Labor