



# Sourcing: Where and When Tax is Due

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Wyoming Department of Revenue

Many times the department is asked how to determine the proper tax rate to charge, if a sale is taxable in Wyoming, and how to determine the proper sales tax rate to be charged on a taxable service. These questions may all be answered by applying the department's sourcing rules. Wyoming has adopted the sourcing rules set forth by the Streamlined Governing Board since becoming a full member state January 1, 2008. Sourcing basically is a review of a transaction and determines where tax is due and at what tax rate.

Wyoming bases the point of taxability upon the point of possession in which our sourcing rules use the terms "receive" and "receipt" and 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. Please be aware that "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser. Regardless of where a sale originates or is shipped from, point of possession/receipt is still the determining factor. In essence, taxable sales transacted within the state are sourced to the county where the customer takes possession. Sales which occur outside of Wyoming (the customer takes receipt in another state) do not belong to Wyoming; therefore, the sale and associated sales tax would be sourced (belong) to the state where the customer receives the goods. Taxable services are sourced/based on the county where the customer is able to make first use of that

service. In calculating the correct tax rate, the current tax rate in effect of the county where the customer receives possession or makes first use of a service dictates the applicable tax rate.

## Retail Sales of Tangible Personal Property (excluding lease or rental of TPP and motor vehicles):

Retail sales where possession passes in Wyoming, meaning the customer receives the goods in Wyoming are sourced as follows:

- A. Taxable to the business location when received by purchaser at seller's location
- B. If not (A): taxable to location where purchaser takes possession
- C. If not (A) and (B): taxable to location indicated by an address for the purchaser
- D. If not (A-C): taxable to location indicated by address for the purchaser obtained during the conclusion of the sale
- E. If not (A-E): location will be determined by the address from which the TPP was shipped or delivered electronically [W.S. 39-15-104(f)(i) in full text under supporting authority]

Our sourcing rules are progressive, meaning, if the situation does not meet (A), the vendor would next review (B) and if the situation does not fit (B) the vendor would review (C) and so forth through (E) until

finding the most applicable rule. Keep in mind that shipping terms do not alter the sourcing of the sales tax.

#### In-state transaction – Sourcing Rule A

A company sells a computer at its place of business in Natrona County, Wyoming, and the customer takes receipt of that computer at the company's place of business; therefore, the sale is taxable (sourced) based on the rate in effect at the time of sale in Natrona County. In this example, the vendor calculates the sales tax due by using the current tax rate in effect in the county where the business is located, e.g., Natrona County.

#### ***In-state transaction – sourcing rule A:***

A Montana resident drives to Cody, Wyoming and purchases a television where he pays the vendor and places the television in his vehicle for transport back to Montana. Since the Montana resident took receipt of the television in Cody, WY (Park County) the sale is sourced to Park County. The vendor would collect the current tax rate in effect for Park County on the sales price of the television.

#### Out-of-state delivery – Sourcing Rule B

A tourist walks into a vendor's store in Jackson Hole, Wyoming. He purchases a large painting and rather than taking possession in the store, he instructs the sales clerk to ship it to his home address in California. The sale would belong to California as this is where the customer will take receipt of the painting. As this sale is not a Wyoming sale, the vendor would not collect Wyoming sales tax on the transaction.

#### ***Out-of-state delivery – sourcing rule B:***

A customer located in Illinois orders tools from a Wyoming vendor located in Casper Wyoming. The order is placed and shipped to the customer's location. Since the tools are shipped and received in Illinois, the sale does not belong to Wyoming, but to Illinois. As a result, the vendor would not collect Wyoming sales tax.

#### Out-of-state purchase – Sourcing Rule B or C

A Wyoming customer purchases a computer monitor from an online retailer who is located out-of-state. The retailer ships the computer monitor to the customer's home address located in Laramie County, WY but is not licensed to collect Wyoming sales tax. The sale would be taxable in Laramie County since this is where the customer takes receipt of the monitor. Since the seller did not collect Wyoming sales tax, the Wyoming purchaser would owe use tax based on the current tax rate of Laramie County.

Conversely, if the online retailer has voluntarily licensed or has made sufficient sales in Wyoming to trigger a licensing and tax reporting requirement, the seller would collect and remit Wyoming sales tax from the purchaser and report the sale on his periodic Wyoming sales/use tax return. Discussion of economic activities that create licensing requirements is addressed in W.S. 39-15-501(a), cited at the end of this bulletin and are further expounded upon in our "Are you a Vendor?" bulletin.

#### Taxable Services

Taxable services are sourced where the consumer has the opportunity to make first use of service after it is rendered. It is important to note that the department

administers making first use of services to mean where the customer has the opportunity to make first use of the service as opposed to where the customer actually uses the service first. To follow are typical examples of sourcing services and are applicable for any type of taxable service, i.e., taxidermy, equipment repairs, oil and gas services, etc.

**Service – First use at location where service is rendered**

A customer has his oil changed at a quick lube shop in Converse County while he waits. The service is taxable in Converse County since this is where his customer makes first use of the oil change service. The vendor would collect and remit the current tax rate in effect for Converse County.

***Service and first use at same location:***

A customer located in Albany County drives to Natrona County to drop off his lawn mower for repair. The vendor repairs the mower and the customer picks up the mower at the vendor's shop in Natrona County. The service is taxable in Natrona County and not Albany County as this is where the customer is able to make first use of the service. The vendor would collect and remit the current tax rate in effect for Natrona County.

**Service – First use not where service is rendered**

A customer located in Laramie County ships a vacuum to a repair shop located in Albany County. The service provider repairs the vacuum and ships the vacuum back to his customer. The service is taxable in Laramie County as this is where the customer is able to make first use of the repair service. The vendor would collect the current tax rate in

effect for Laramie County on the sales price of the repair service.

**Service rendered in another state - first use in Wyoming**

A customer located in Sheridan County, WY, ships a laptop computer to a service provider located in Texas. The vendor repairs the laptop and ships it back to the customer's location. The service is taxable to Sheridan County as this is where the customer will make first use of the service. If the Texas vendor is licensed to collect Wyoming sales tax, he/she would collect the current tax rate in effect for Sheridan County. If the vendor is not licensed to collect Wyoming sales tax, the customer is liable for use tax which is calculated using the current tax rate in effect for Sheridan County. The taxable base includes both materials and parts used in the repair as well as any labor charges.

**Service rendered in Wyoming – First use out-of-state**

A customer located in South Dakota ships a small motor to a repair shop located in Campbell County, WY. Once repaired the vendor ships the motor back to the customer in South Dakota. The sale of the service does not belong to Wyoming, but rather South Dakota as this is where the customer is able to make first use of the repair service. The vendor would not collect Wyoming sales tax given the service belongs to another state.

**Leases or Rentals of Tangible Personal Property (excluding motor vehicles and transportation equipment)**

Rentals and leases are sourced a bit differently. For a lease or rental of tangible personal property that requires recurring

periodic payments, the first periodic payment is sourced the same as a retail sale, e.g., based on where the customer takes receipt of the leased/rented item. Subsequent periodic payments are sourced to the primary property location for each period covered by the payment and is not affected by intermittent use in another location. The primary property location is determined by the indication of 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. Basically, the subsequent lease/rental payment can alter depending on the payment schedule and is not altered by intermittent use at different locations. The current tax rate in effect of the county where the lease is sourced (whether the first payment or subsequent payments) dictates the appropriate Wyoming sales tax rate to be collected.

#### Recurring Payments

A company located in Natrona County, leases equipment for one-year with recurring monthly payments to a customer located in Albany County, and this is also the county where the customer receives the leased equipment. The first payment is sourced as a retail sale based on where the customer receives the leased equipment. Therefore, the tax rate to use is the current tax rate for Albany County. If the equipment should stay in Albany County, then any subsequent payments would also be sourced to Albany County. If the equipment should be moved at some future point during the lease to another county, those subsequent payments would be sourced to the other county; please see the next example.

#### Primary location change

A company, located in Utah, leases equipment for one-year and requires

monthly payments to a company located in Sweetwater County, Wyoming. Since the first payment is sourced as a retail sale, the leased equipment would be sourced to Sweetwater County as this is where the company receives the equipment. However, should the equipment then be moved to Converse County after six months, the first six months would be sourced to Sweetwater County and the second six months would be sourced to Converse County.

#### Non-recurring payments

A customer rents a jackhammer for one week from a rental store located in Natrona County, Wyoming. The customer loads the jackhammer in his truck in Natrona County and uses it at the job site which is located in Campbell County, Wyoming. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale. This means that the rental would be sourced to Natrona County and use in Campbell County is irrelevant.

Lease or rental of a motor vehicle, trailer, semi-trailer or aircraft (excluding transportation equipment):

For the lease or rental of a motor vehicle, trailer, semi-trailer or aircraft that does not require recurring periodic payments, the payment is sourced the same as a retail sale. For a lease or rental that requires recurring periodic payment, the sales tax on each payment is sourced to the primary property location of the rented vehicle and is not affected by intermittent use in another location. The primary property location is determined by the indication of 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 current tax rate in

effect of the county where the lease is sourced (whether the first payment or subsequent payments) dictates the appropriate Wyoming sales tax rate to be collected.

#### Primary property location

A customer enters into a six month motor vehicle lease with a primary property location of Laramie County, Wyoming. However, three months later, the lessee moves the primary property location to Teton County for the remaining three months. The tax on the initial three months of payments is sourced to Laramie County as that is the primary property location. Once the vehicle is moved to Teton County, the tax on the remaining three payments is taxable at the then current tax rate in effect for Teton County.

#### Lease - Tax paid to another state

Specifically regarding the migration of a vehicle lease wherein sales tax was required to be paid “up front” on the total of the lease payments or on an otherwise accelerated basis, provided that sales tax had been legally imposed and paid to the other state, Wyoming would recognize tax as paid and no additional sales tax would be due over the course of the lease stream while the vehicle has a primary property location within the State of Wyoming. For example, a customer leases a vehicle in Wisconsin where the lease requires that the sales tax be paid up-front on the total lease amount. The customer then moves to Wyoming, and thus changing the lease’s primary property location. Because tax had been legally imposed and paid up-front to another state, Wyoming would not see any additional tax due on the lease.

#### Intermittent use

A motor vehicle is leased for one-year which require monthly payments to a traveling sales representative who has a residence in Albany County. The lessor determined that the Albany County address would be the lease’s primary property location. The sales representative uses the vehicle to travel to multiple counties in the state soliciting sales. Regardless of where he uses the vehicle, the lease continues to be sourced to the primary property location of Albany County as the primary property location is not affected by intermittent use in another location. As a result, the lessor would collect tax using the current tax rate in effect for Albany County as this is the primary property location.

#### Tax rate changes during the course of a lease

When tax rate changes occur in the county of primary use during the period of time covered by the lease, that change must be reflected in the tax collected. For example, a customer leases a vehicle for one-year which is sourced to the customer’s primary location in Natrona County. As a result, the lessor would collect sales tax based on the current tax rate in effect for Natrona County. However, after six months, Natrona County experienced a tax rate increase of one percent (1%). In this situation, the lessor would collect the new tax rate in effect for Natrona County and starting with the month the rate change took effect. Likewise, if the primary property location changes (other than intermittent use at a different location), the tax would then be assessed and remitted at the current rate in effect in the new location.

Current tax rates are located on our website at: <https://revenue.wyo.gov> where relevant sales tax rate charts may be downloaded. In

the left column “Home” select “Excise Tax Division” > “Publications” > Select “Sales & Use Tax Rate Charts” > Select “Master Tax Rate Chart” and select the applicable chart for the time period. Please be aware these rate charts are updated as changes occur.

Lease or rental of a motor vehicle, trailer, semi-trailer or aircraft qualifying as transportation equipment and for the sourcing of telecommunications services:

For the sourcing of transportation equipment, and telecommunication services, you may contact our office and/or review all Wyoming sourcing statutes from our web site at <https://revenue.wyo.gov>. > From the middle section titled “Department Key Reports” > Select “Wyoming Statutes – files in download format.” This will take you to the Wyoming Legislative website. Once there select Title 39 Taxation and Revenue. Sourcing rules can be found under W.S. 39-15-104 - Taxation rate. Transportation equipment, W.S.39-15-104(f)(iv) and Telecommunication services W.S. 39-15-104(f)(v-vii).

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](mailto:DOR_taxability@wyo.gov)**

Supporting Authority -

W.S 39-15-101 (a)(xxxii)  
“‘Lease’ or ‘rental’ means any transfer of possession or control of tangible personal property for consideration for a fixed or

indeterminate period of time. A lease or rental may include future options to purchase or extend the lease or rental. ‘Lease’ or ‘rental’ shall include any agreement covering a motor vehicle or trailer where the amount of consideration may be increased or decreased by reference to the amount realized upon a sale or disposition of the property as defined in 15 U.S.C. & 7701(h)(1). The definitions in this paragraph shall be used for sales and use tax purposes regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Uniform Commercial Code, or other, applicable provisions of federal, state or local law. “Lease” or “rental” shall not include:

- (A) A transfer or possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- (B) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price which does not exceed the greater of hundred dollars (\$100.00) or one percent (1%) of the total required payments; or
- (C) Providing tangible personal property along with an operator for a fixed or indeterminate period of time, with the condition that the operator is necessary for the equipment to perform as designated. For purposes of this subparagraph, an operator shall do more than maintain, inspect or set up the tangible personal property.”

W.S. 39-15-103(a)(i)(B) imposes sales tax on:

“The gross rental paid for the lease or contract transferring possession of tangible personal property if the transfer

of possession would be taxable if the sale occurred.”

W.S. 39-15-104(f)(i) sources retail sale (excluding lease or rental) 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) If it is undeterminable by the seller whether the product was received by the purchaser at a business location of the seller, 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) sources 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. 39-15-104(f)(iii) sources lease or rentals of a motor vehicle, trailer, semi-trailer or aircraft that do not qualify as transportation equipment are sourced as follows:

(A) "For a lease or rental that requires recurring periodic payment, each periodic payment shall be sourced to the primary property location. 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. This location shall not be altered by intermittent use at different locations;

(B) For a lease or rental that does not require recurring periodic payments, the payment shall be sourced the same as a retail sale.

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

W.S. 39-15-501(a) states:

Sales from remote sellers.

Notwithstanding any other provision of law, any seller of tangible personal property, admissions or services which are subject to taxation under chapter 15 or 16 of this title who does not have a physical presence in this state shall remit sales tax and follow all applicable procedures and requirements of this chapter as if the seller had a physical

presence in this state once the seller meets either of the following requirements for the current calendar year or the immediately preceding calendar year:

(i) The seller's gross revenue from the sale of tangible personal property, admissions or services delivered into this state exceeds one hundred thousand dollars (\$100,000.00); or

(ii) The seller sold tangible personal property, admissions or services delivered into this state in two hundred (200) or more separate transactions.

*WY Dept. of Rev. Rules, Chap. 2, Sec. 13(cc)*

"Rentals or Leases. The gross rental paid for a lease or contract where possession of tangible personal property transfers, and such transfer would be taxable if a sale occurred, shall be subject to the sales tax. The owner of such property shall be considered the vendor and shall charge, collect and remit the sales tax on each rental or lease payment. The purchase of tangible personal property which will be exclusively held for rental, lease or sale shall be considered a wholesale purchase and shall be exempt from the sales tax."