



Towing Services

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Wyoming Department of Revenue

There is often confusion with regard to towing services, a towing only service versus other work performed in conjunction with the tow service. This bulletin addresses the taxability of both situations.

Towing

A tow service involves a vehicle that is being moved from one location to another, without any other service performed. Wyoming administers towing services to be synonymous with the transportation of freight and both intrastate and interstate transportation of freight are exempt from Wyoming sales tax. Therefore, when a service provider tows a vehicle for his customer, and provides no other service to the vehicle, the invoice to the customer would not include a charge for sales tax.

Other Services

Services which repair, alter, and/or improve tangible personal property are subject to sales tax. For example, jump starts, lock outs, tire changes, adding water to a radiator, etc., are all taxable services. The sales price of the service (amount subject to sales tax) includes all materials, parts, and labor the service provider used in the repair.

Examples

Nontaxable Example

A customer calls for a tow service due to a bad transmission. The tow company goes to the customer's location and tows the

vehicle; therefore, the tow charge is not subject to sales tax as Wyoming does not tax transportation of freight.

Taxable Example

A customer calls the tow company due to a flat tire. The service provider changes the flat tire at the customer's location instead of towing the vehicle to a repair shop. In this instance, the service provider is providing a taxable service. His labor and materials are taxable to the customer.

Taxable and Nontaxable Elements; Example

A customer calls the tow company to jump start his vehicle. The tow service goes to the customer's location and jump starts the vehicle; however, the vehicle still does not start. The customer then opts to have the vehicle towed to the repair shop. The charge for the jump start is subject to sales tax while the charge for the tow is not subject to sales tax when the charges are separately stated on the invoice provided to the customer.

Storage and other fees

Vehicle storage fees are not subject to sales tax since Wyoming does not impose tax on the rental or lease of real property.

Fees which are associated with a nontaxable tow service, such as hook-up, off-load, rough road, after hours, and trailer fees are not subject to sales tax. Fees associated with a taxable repair service, such as, a

minimum fee, after hours fee, waste disposal fee, or shop fees are subject to sales tax.

Regarding wreck and recovery services, the tow portion as well as the charge to load and clean-up cargo from a roadway are not subject to sales tax. Wyoming does not impose tax on transportation of freight or labor which affects real property.

Billing & Sourcing

Wyoming law requires that when taxable charges (i.e., vehicle repair) and non-taxable charges (i.e., towing) are included on the same invoice, the charges must be separate and distinguishable or the entire invoice is subject to Wyoming sales tax. For example, a service provider would need to state the tow service and amount associated with the service separately from a taxable repair service charge or the entire invoice is taxable by default.

Regarding taxable services, the service provider should collect sales tax where the customer has the ability to make first use of that service after it is rendered. For instance, if the service provider changes a tire on a roadway located in Lincoln County, the service provider would charge the current sales/use tax in effect for Lincoln County. In another example, a service provider towed a vehicle from a roadside located in Laramie County to a shop located in Albany County for repair. Once repaired, the owner of the vehicle picks-up the vehicle at the garage located in Albany County. In this instance, the service provider would not charge sales tax on the tow, but the customer would owe sales tax on the repair service at the current rate for Albany County.

Please be advised that this bulletin addresses issues in general terms and cannot be appropriate or applicable in all situations. If your situation is markedly different or you have concerns about this issue, please do not hesitate to contact this department. You can do so by e-mail directed to:
DOR_taxability@wyo.gov

Supporting Authority -

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

"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. 39-15-103(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)(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. 39-15-101(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. 39-15-105(a)(ii)(A)

For the purpose of exempting sales of services and tangible personal property protected by federal law, the following are exempt: Interstate transportation of freight or passengers;

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

For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt: 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. 39-15-101(a)(viii) states:

"Sales price":

(A) Shall apply to the measure subject to sales tax and means the total amount or consideration, including cash, credit, property and services for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- (I) The seller's cost of property sold;
- (II) The cost of materials used, labor or service cost, interest, losses, all costs of

transportation to the seller and any other expense of the seller;

- (III) Charges by the seller for any services necessary to complete the sale other than delivery and installation charges;
 - (IV) Delivery charges;
 - (V) Installation charges;
 - (VI) Repealed by Laws 2007, Ch. 10, 2.
- (B) Shall not include:
- (I) Discounts, including cash, terms or coupons which are not reimbursed by a third party, which are allowed by a seller and taken by a purchaser on a sale;
 - (II) Interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separate stated on the invoice, bill of sale or similar document given to the purchaser; and
 - (III) 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.
- (C) "Sales price" shall include consideration received by the seller from third parties if:
- (I) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to the price reduction or discount on the sale;
 - (II) The seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (III) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
 - (IV) One (1) of the following criteria is met:
 - (1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon certificate or documentation is authorized, distributed or

granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron shall not constitute membership in such a group; or

(3) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

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.

WY Dept. of Rev Rules Chap 2, Sec 5(i)

Transportation or freight charges are not taxable and shall not be included within the sales price of any retail sale. Transportation or freight charges in a wholesale transaction

are a component of cost of goods sold, like markup and overhead, and become part of the sales price paid by the consumer. The exemption availed to the wholesaler in the wholesale transaction cannot be passed through to the consumer in a retail transaction.

WY Dept. of Rev Rules, Chap 2, Sec 10(c)

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 7(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. 13(dd)

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 as defined by W.S. 39-15-101(a)(xvi). Labor or service charges for repairs, alterations or improvements of real property are not subject to the sales tax.