



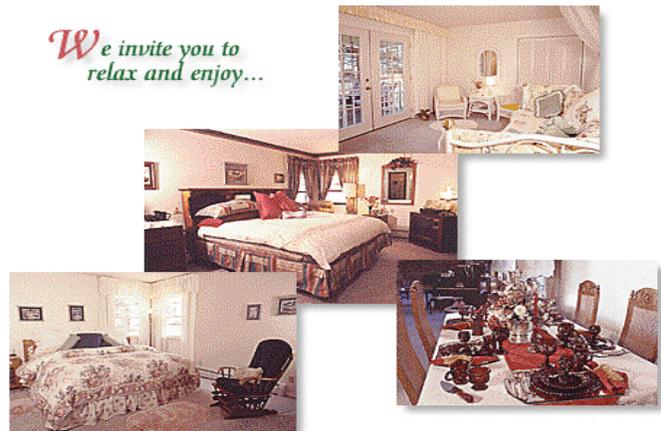
State of Wyoming
DEPARTMENT OF REVENUE

MATTHEW H. MEAD, Governor
DANIEL W. NOBLE, Director

122 West 25th Street, 2-West, Cheyenne, Wyoming 82002-0110
Telephone:(307) 777-7961 ◦ Web:<http://revenue.wyo.gov>
Email: DOR_Taxability@wyo.gov

Property Tax Division Fax (307)777-7527 ◦ Excise Division Fax (307)777-3632 ◦ Mineral Division Fax (307)777-7849 ◦ Liquor Division Fax (307)777-6255

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Sales, Use and Lodging Tax Guidelines for
the Hospitality Industry



The hospitality industry faces some unique challenges when it comes to the application of Wyoming sales and lodging taxes. This publication addresses many of the most commonly asked questions that arise in the industry. It covers not only charges for the lodging itself but related charges often applied to a guest's folio as well as other associated products and services sold by lodging establishments apart from lodging services. It also addresses services provided by guides, outfitters and similar persons.

Lodging services are defined as overnight lodging accommodations for transient guests and includes the provision of sites for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations. Transient guests are defined as those guests who remain for less than thirty (30) continuous days. Lodging services are subject not only to Wyoming sales tax but they are also subject to lodging tax, if locally enacted. Lodging tax is an additional excise tax which may be imposed at either the city or county level by voter approval.

Those persons who provide lodging services, whether provided in a traditional hotel/motel, campground, bed and breakfast, private residence rental or other manner 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 issues are discussed below.

Short Term and Long Term Stays

Lodging services provided to transient guests are subject to Wyoming sales tax and lodging tax if locally enacted. If a guest unexpectedly stays for longer than twenty-nine (29) continuous days, the guest is no longer considered a transient guest. This means that the lodging, back to the first

day of the guest's occupancy, is not subject to either sales or lodging taxes. In practicality, the vendor must:

- a. Credit the guest for sales and lodging taxes previous paid for the first twenty-nine (29) days of stay; and
- b. Cease charging the guest sales and lodging taxes for any additional and continuous lodging provided.

Please note any charges to the guest unrelated to the lodging itself, such as meals, laundry service, etc. are still subject to tax and are not affected by the length of time a guest is receiving lodging. It is only the lodging that becomes non-taxable when the guest receives lodging continuously for thirty (30) days or longer.

If a guest initially contracts to stay for thirty (30) continuous days or longer but then departs before the thirtieth (30th) day, the sales and applicable lodging taxes are due on the lodging service provided for the number of nights the lodging service was provided. This is true even if the guest comes back to the establishment and finishes out the thirty (30) day stay. The fact that the stay is not continuous forces each portion to be considered separately from one another.

Confusion seems to arise when businesses enter into an agreement with a lodging establishment, reserving rooms with the intention of rotating employees in and out of the room during the agreement period. In this situation the persons actually occupying the room are not the guest of the establishment; the business is actually the guest. If the business were to rent a room for a term of at least thirty (30) continuous days it qualifies as a non-taxable transaction. While a formal contract, lease or correspondence is not required; in situations where a lease or other agreement exists, the language of the agreement should also clearly indicate this arrangement and be retained by the establishment for audit purposes.

Sales Price

Lodging establishments generally offer the lodging service at several price points depending on the level of the service and/or promotion being offered. Wyoming sales tax and lodging tax are assessed based on the sales price paid for the lodging service. The term sales price is means the total consideration for which the service is sold regardless of the manner in which the consideration is received. In other words it is the total cost of the guest to enjoy the lodging service. When a lodging service provider invoices a guest for a required resort fee or fee for concierge level service, these charges become part of the sales price paid by the guest to enjoy the lodging service and subject to both sales tax and lodging tax. Similarly additional surcharges for pets or required pet cleaning fees are taxable as part of the sales price of the lodging service. The same holds true for fees charged by the lodging establishment for guest's use of an in-room safe and intrastate telephone charges. Whether they are separately stated or ensconced in the overall nightly rate, they are subject to the sales and lodging taxes.

Lodging establishments may also charge guests for roll-a-way beds, portable cribs and similar rentable items on a length or stay or daily fee basis. When these charges are presented to the guest separately stated and distinguishable from the sales price of the lodging service, these additional fees are subject only to Wyoming sales tax. However, should they included in the price of the lodging service then they too would be subject to Wyoming sales and lodging taxes, if locally enacted. When a lodging establishment charges their guest use charges for pay-per-

view movies or access to the establishment's WiFi connection, there is no sales tax due on these purchases so long as they are itemized on the guests invoice. But as noted previously if not delineated those charges are also subject to Wyoming sales and lodging taxes as part of the lodging service provided. It is required by Departmental Rule that when an invoice is presented to a purchaser that does not separately state items of differing tax consequence that the provider apply the highest rate of tax to the invoice as would apply to any single charge thereon.

Promotional offerings, such as ski packages, where the invoice shows a lump sum for all included items, such as meals, drinks, tickets, rental of recreational gear and spa services, run counter to this itemization requirement and deserve to be specifically addressed. When the invoice is presented to the guest in a lump sum fashion for all included items both sales and lodging tax must be applied to the entire package price. However, if the invoice is presented charging each element separately from one another, only the portion actually attributed to the lodging service is subject to the combined sale and lodging taxes and those elements only subject to sales tax are taxed at the individual sales tax rate and those not subject to tax are left untaxed on the invoice.

So to recap, specifically the following applies:

- Resort fees. Mandatory fees charged by a lodging establishment for full access to the establishment's amenities or for concierge level services are subject to Wyoming sales and lodging taxes. In addition, supplemental marketing fees, even when orchestrated by a local or national Convention and Visitors Bureau, are subject to Wyoming sales tax. These fees lack statutory directive as a tax. Thus they do not fit the exclusion from the statutory definition of sales price. Thus they are also subject to Wyoming sales tax and applicable lodging tax.
- Pet charges. Pet fees are subject to sales and lodging taxes if the fees are part of the sales price of the room. If the fee/deposit is returned to the guest at the end of the guest's stay, the fee/deposit is not subject to sales tax.
- Pet cleaning fee. This fee is taxable as part of the total amount of lodging services charged transient guests and is subject to sales tax and any applicable lodging tax.
- Safe fees. Optional safe fees for storing a guest's items with the hotel are not taxable as a rental of real property not related to a lodging service. However, safe fees which are charged to a guest for the use of an in-room safe are related to the lodging service provided and are subject to sales and lodging taxes as part of the total sales price paid in connection with the lodging service.
- Telephone. Intrastate telephone services are taxable as part of the lodging service.
 - The lodging vendor is responsible for the sales tax on the difference between what the telecommunications provider charged and what the lodging vendor charged. For example, let us say that a telecommunications provider invoices the lodging vendor for telephone services at a rate of \$1.00 plus five cents of sales tax for a total of \$1.05. The lodging vendor, for the same call or volume of calls, charges its guests \$10.00 plus fifty cents of sales tax for a total of \$10.50. The premise of this rule is for the lodging vendor to remit sales tax based on the difference in tax. Since the lodging vendor has already remitted the five cents to the telecommunications provider, the lodging vendor remits the forty-five cent difference to the Dept. of Revenue for intrastate phone calls made by his/her customers.
- Rollaway bed and crib. Separately stated rollaway bed or crib fees are subject to sales tax as a rental of tangible personal property. Lump sum lodging fees that include the costs of a

rollaway or crib are subject to sales and any local option taxes as part of the total amount of lodging services charged transient guests.

- Pay-per-view movies. Electronically delivered, pay per view movies are not subject to Wyoming sales tax provided the guest does not obtain permanent possession of the product.
- Wi-Fi. Charges for wireless internet access are exempt under federal law. The Internet Taxation Freedom Act prohibits states from taxing all forms of internet access. Please note, however, that the moratorium does not extend to the underlying services. The term “internet access” as defined by the current moratorium “...does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.” Thus, while the dial-up connection or the DSL access fee is exempt from Wyoming sales tax, the local phone connection remains taxable.
- Ski packages, honeymoon packages, etc. If the invoice shows a lump sum for all included items, including lodging, meals, drinks, tickets, rental of recreational gear, and spa services, then the entire package is subject to both sales and applicable lodging taxes.
 - If the lodging service is stated separately from the other elements on the invoice, then only the lodging service is subject to sales and lodging taxes. Separately stated meals, drinks, tickets and gear rental are subject only to sales tax.
 - Separately stated spa services, such as facials, massages, and barber services are not subject to sales or lodging taxes.

Wholesale and Complementary Rooms

Wholesale sales are not volume discount sales but instead sales made on the basis of resale. An example of a true wholesale sale in the lodging industry would be lodging establishment “A” purchasing living quarters from lodging establishment “B” so that “A” can accommodate a large convention group. Establishment “A” provides establishment “B” with a properly completed exemption certificate to document this wholesale transaction. In turn establishment “A” resells the accommodations at both properties and collects and remits the Wyoming sales taxes and lodging taxes to our Department.

All licensed Wyoming vendors have the ability to purchase property and services on the basis of resale. But not all licensed vendors have the ability to remit lodging taxes to the Department. When a licensed Wyoming vendor who is not also a licensed lodging vendor purchases lodging services on the basis of resale the lodging establishment must still collect and remit the lodging tax portion on their periodic sales/use tax return. To illustrate, a restaurant purchases accommodations that it will sell to its customers in conjunction with a special event they are hosting. The restaurant is a licensed vendor in Wyoming but is not a lodging vendor. When the restaurant purchases the lodging services on the basis of resale and provides a properly completed exemption certificate to the lodging establishment, the lodging establishment would remove sales tax from the invoice; but would still charge the restaurant the lodging tax portion since the restaurant cannot remit it to our Department directly.

The third type of sale that is often thought of as wholesale is sales made directly to tour operators, travel agents, meeting planners, etc. While it may be the intention of these parties to resell the rooms to their clients often times these parties are not actually licensed vendors with our office. And as such they lack the authority to actually make tax exempt purchases on the basis of resale. In this case, even if it is known to the lodging establishment that the room will be sold to another party, the lodging establishment is required to collect and remit both the sales and

lodging taxes to our office on sales made to the travel agent, meeting planner or similar unlicensed purchaser.

The term complimentary room can be confusing. In one case it can refer to rooms given to tour operators, travel agents, employees and other guests without charge as a reward for past purchases, new booking incentive, weather concern or some similar situation. But in another it can refer to the consideration a lodging establishment uses to pay for a product or service received from a third party.

When a lodging establishment offers a room on a complimentary basis, or without receiving anything in exchange for the lodging service, the establishment must self-assess and remit Wyoming sales tax on the cost associated with the disposable and consumable items placed in the room. This is true because the lodging establishment was permitted to purchase these items on a wholesale for resale basis. It was then anticipated that tax on these items would be collected and remitted through the sales price paid by a patron receiving lodging services. However the lodging establishment is not receiving taxable consideration for the lodging service provided in this situation. Therefore these items removed from an untaxed inventory become taxable to the establishment.

On the other hand, when an establishment provides lodging services in exchange for a product or service, the establishment must self-assess and remit sales and lodging tax based on the normal and customary sales price charged to others for the accommodations. For example, a lodging establishment may offer accommodations for one night in exchange for appliance repairs. Considering this conventionally, the establishment would pay sales tax to the appliance repair party on their purchase of a taxable service. Likewise the appliance repair party would pay sales and lodging taxes to the establishment on the purchase of the lodging service. But in this exchange, each party is offering their service as payment to the other. Since the lodging establishment is offering a taxable lodging service as consideration for its purchase, the lodging establishment is responsible for the sales and lodging taxes based on a comparable rate as it would have offered to other guests in similar accommodations.

Deposits

Even though most lodging establishments do not require any prepayment of lodging services, there are occasions where a deposit or full payment may be required, as in the case of a tour or special event or even based on a multiple accommodation commitment. In these circumstances the amount received by the lodging establishment for prepayment is not subject to tax until the lodging service is rendered. To illustrate, a lodging establishment charges a fifty dollar deposit for accommodations reserved for New Year's Eve. A guest reserves a room in June and is charged the deposit. Once the guest arrives on December 31st, he is charged the remaining amount for the lodging accommodations reserved. At that time, the lodging establishment collects and remits sales and lodging tax based on the full sales price charged for the lodging accommodations, to include the previously collected deposit amount.

Early Arrivals, Late Departures and Cancellations

Not all guests arrive and depart as anticipated. Many times a guest will arrive before normal check-in time and request an early check-in. Similarly a guest may request late departure based on their travel itinerary. Moreover, it may become necessary to charge a guest's credit card for an unanticipated cancellation. Fees charged by the lodging establishment to accommodate guests

requesting early arrivals or late departures are subject to the sales and lodging taxes, if locally enacted. The basis for this is the guest is required to pay an additional fee in order to enjoy the lodging service on the extended basis. As a required fee to receive the lodging service it is a component of its sales price.

With regards to cancellations, depending on whether the lodging establishment recovers the ability to provide a secondary lodging service will dictate whether the fee is subject to tax. For clarity purposes we will consider two scenarios.

In the first scenario the guest is charged for cancelling a reservation prior to the scheduled arrival time. After the reservation is cancelled, the lodging establishment places the accommodations back into their inventory pool of available rentals. It is our position that this type of cancellation fee is not subject to Wyoming sales tax. In this case the cancellation fee would better be described as a penalty for lost rental opportunity during the time that the living quarters were reserved and not as the sales price paid for those quarters. Since the lodging establishment is able to return the accommodations to their available inventory pool they are not provide a lodging service to the guest having been charged the cancellation fee.

The second scenario often occurs when a guest reserves lodging accommodations but does not utilize them. In this circumstance the lodging establishment does not return the accommodations to their available inventory but instead holds it as unavailable. It is our position that this type of fee which we commonly term a 'guaranteed no-show fee' is subject to Wyoming sales tax. By not returning the living quarters to their available inventory pool the lodging establishment has provided a lodging service, even if the room went unoccupied. There is no requirement in the Wyoming statutes that living quarters actually be utilized/occupied in order for a lodging service to be provided.

Fees for attrition, often seen in a group environment, are handled in the same manner. If the lodging establishment holds the agreed upon number of accommodations out of inventory for exclusive use of the group then the fee is subject to Wyoming sales and lodging taxes. But if the establishment returns the unnecessary accommodations to their available rental pool then the fee is not subject to the sales and lodging taxes.

Facility Repairs and Maintenance

Although lodging establishments are the vendors of lodging services they are also consumers of property and services necessary to conduct their businesses. Disposable items placed in a room, to include toilet paper, toiletries, ice bucket liners, etc. may be purchased without the payment of sales tax on a wholesale for resale basis, but any purchases of tools, equipment and supplies purchased by businesses and professional persons to conduct their businesses are taxable purchases. Examples of such business purchases taxable to the lodging establishment would include, but not be limited to, fixtures, beds, linens, furnishings, janitorial equipment and supplies, office equipment and supplies, vehicles, fitness equipment and tools. There is also a tax consequence to the lodging establishment for purchases of tangible personal property to repair and maintain their own property.

When third party services are purchased the tax consequence varies depending on the type of property effected by the service. In the case of a purchase of third party services to perform repairs, alterations or improvements to tangible personal property, the entire service is taxable to

the lodging establishment. 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 are subject to sales tax. Examples might include repairs to small appliances, such as microwaves, mini refrigerators, coffee pots, fitness equipment, as well as repairs to washers and dryers, computer equipment, etc.

However, when the lodging establishment purchases services that repair, alter, improve or construct real property the tax treatment differs. In this case the establishment is hiring a contractor. A contractor is considered the consumer of his materials and his labor is not subject to tax. The result for the lodging establishment is that the charges presented by the contractor do not have a line item for tax. Any tax on the contractor's materials are entrenched within his materials and labor price (bid) and not evident on his invoice to the establishment. For example a lodging establishment hires a contractor to perform services to their real property, say their in-ground pool or hot tub. Any materials and supplies purchased by the contractor from his supplier are taxable to him at the time of purchase. In turn when the contractor invoices the lodging establishment, he embeds the tax along with his other costs of doing business as part of his flat rate (either lump sum or delineated) void of any notation of tax.

When a lodging establishment purchases a warranty, maintenance contract or service agreement the tax consequence of the agreement itself and of the services performed varies. Wyoming recognizes two different types of warranties, standard and extended. In short, a standard warranty is considered part of the sales price of the tangible personal property purchased and is taxable at the time of purchase. As a result services performed under a standard warranty are not taxable to either the lodging establishment or to the issuer of the agreement. In contrast an extended warranty is not subject to tax at the time it is purchased but any services performed under the agreement are taxable to the issuer with a tax liability to the lodging establishment for deductibles or non-covered charges. Further discussion is available in our Warranties bulletin.

Specific to Facility Repairs and Maintenance the following applies:

- Disposable items. Disposable items placed in room, i.e., toilet paper, soap, shampoo, ice bucket liners, etc., are sales tax exempt purchases for resale by the lodging vendor. These items are subsequently captured as taxable as part of the overall charge for lodging services.
- Furnishings. Furniture and fixtures placed in the room, i.e. chairs, microwaves, mini-fridges, lamps, beds, etc., are subject to sales/use tax at the point of purchase by the hotel. These items are considered taxable business supplies.
- Janitorial supplies. Janitorial supplies used by the lodging facility are subject to sales/use tax. Examples include trash bags, glass cleaner, cleaning rags, janitorial carts, toilet scrubbers and disposable gloves.
- Reusable items. Reusable items placed in the room, i.e., towels, linens, ice buckets, etc., are taxable at the point of purchase by the hotel. These items are considered taxable business supplies.
- Laundry machines. Purchases of washers or dryers by the lodging facility are subject to sales tax. Purchases of laundry supplies to wash bedding and linens used by the hotelier are subject to tax.
- Vending machines. The purchase of a vending machine is taxable to the establishment as a business supply purchase. The vendor's purchase of tangible personal property, including candy, popcorn, soda pop, fruit juice and laundry soap for placement in a vending machine is

exempt from sales tax on the basis of resale. Vending machine sales of tangible personal property that does not meet the definition of food for domestic home consumption, except newspapers postage stamps, are subject to sales tax when purchased by the guest. Effective July 1, 2011 food sold through vending machines that meets the definition of “food for domestic home consumption” are exempt from sales tax.

- Repairs to tangible personal property. The purchase of third party services to repair, alter, or improve tangible personal property are subject to tax. 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 are subject to sales tax.
- New construction or repairs to real property. Labor costs to improve real property are not subject to sales tax in this instance. The tangible personal property that is purchased for making improvements to real property is subject to sales/use tax. Such fixtures, supplies, materials, etc. are taxable to the purchaser.
 - In a contract where the contractor is providing both labor and all materials, the materials are taxable to the contractor.
 - In a labor only contract, any materials purchased by the lodging establishment and provided to the contractor are taxable to the lodging establishment.
- Maintenance contracts. The sale of a standard warranty is subject to Wyoming sales tax. Repairs or maintenance performed under a standard warranty are not subject to sales tax. However, the sale of an extended warranty is not subject to sales tax but equipment repair or maintenance services covered by the agreement are subject to sales tax.

Guest Services

Guest services range from a friendly smile at the reservation counter to turn down services, laundry and dry cleaning or photocopy/facsimile services. Although some of the most common are detailed individually on the pages that follow, we would like to introduce this discussion with a discussion of business center services and third party charges.

When a guest is charged for additional services apart from the lodging service, they are considered separate taxing events even when they are billed on the same invoice. Since these charges are not directly related to the lodging service they are not subject to the lodging tax. But in order to maintain this quality they must separately stated and distinguishable from those charges that are subject to the lodging taxes. Furthermore, as some of these services are not subject to any sales or lodging taxes the requirement exists that they must be separated from those charges subject to even the sales tax. As noted above under the discussion of packages, charges that are not separately stated and distinguishable are subject to the highest level of taxation applicable to any portion of the invoice. For example, purchasing photocopies from a printer is subject to Wyoming sales tax as a retail sale of tangible personal property. When a lodging establishment business center employee makes photocopies for a guest for a fee this is also subject to Wyoming sales tax. This is also true if the guest uses a coin operated photocopy machine. Ten copies at twenty five cents per copy yields a taxable printing charge of \$2.50. The lodging establishment is required to collect and remit Wyoming sales tax on this charge no differently than a commercial printer would be similarly required. Allowing a guest to use a computer set up in the business center or other public area of the lodging facility with or without fee is not subject to tax so long as the guest does not actually take possession of the computer. However, allowing a guest to rent, or take temporary possession, of a computer for individual use is subject to Wyoming sales tax as a rental of tangible personal property. Providing shipping services to guests for a fee is also not subject to Wyoming sales tax. But the sale of shipping

materials and supplies are taxable sales of tangible personal property for which the lodging establishment must collect and remit Wyoming sales tax.

Some lodging establishments offer what is commonly termed as a “pass through” service. By this we mean the guest can purchase taxable products and services that are billed not to the seller directly but rather are billed to the guest by the lodging establishment. Examples of these include laundry and dry cleaning charges, local food delivery (i.e. pizza) and may be expanded to include concert or event tickets, etc. Wyoming views this not as a pass through of the seller's charge by the lodging establishment, but as a purchase by the lodging establishment and then resale of the product or service to the guest. When looking at the transactions as the Department views them, the lodging establishment should provide the seller (e.g. the laundry/dry cleaner, pizzeria, event center box office) with a properly completed exemption certificate on the basis of resale. Then the establishment would charge the guest sales tax on their invoice. Please note, if the lodging service provider fails to document their purchase as an exempt wholesale for resale transaction that does not preclude them from charging Wyoming sales tax to their guest when these charges are billed. Excise taxes are transactional and the collection of tax in one transaction does not bear to its collection in another.

Meetings and Banquet Services

Many lodging establishments also provide business and banquet services. Charges made by a lodging establishment for facilities other than for lodging, such as meeting rooms, sample rooms and ballrooms are not be subject to the sales or lodging tax. In addition charges to set up and tear down the room based on the customer's needs are also not subject to Wyoming sales tax. However any charges for prepared meals or beverages as well as any charges for equipment rentals, floral arrangements, live entertainment, etc. are subject to Wyoming sales tax. If the non-taxable charges (e.g. banquet or meeting room charge) not separate and distinguishable from the taxable charges (e.g. equipment rentals or per plate meal price, etc.) the entire charge is subject to Wyoming sales tax. Again it is not sufficient that the charges can be broken down by the establishment internally; they must be evident on the invoice, bill of sale or similar document exchanged between the parties and also available to an auditor in the event of an audit.

Specific to Business and Banquet services the following applies:

- Banquet/meeting room. Charges made by a lodging establishment for facilities other than for lodging, such as meeting rooms, sample rooms and ballrooms shall not be subject to the sales or lodging tax.
- Set up fees. Charges to arrange the furniture in the banquet/meeting room to meet the customer's needs are not subject to sales tax.
- Banquet/meeting room plus meals. The charge for a banquet/meeting room is not subject to sales tax. Charges for prepared meals and beverages are subject to sales tax. If this charge is bundled into a single charge, meaning that it is not separately stated, the entire charge is subject to sales tax.
- Equipment. Separately stated charges for rented equipment such as projectors, screens and microphones are subject to sales tax. Free use of the same items is not subject to sales tax.
- Floral arrangements. Additional charges for floral arrangements are subject to sales tax.
- Live entertainment. Charges incurred for live band or DJ to provide entertainment is not subject to sales tax. But, a cover charge required for admission to the place these parties are performing is subject to sales tax.

- Copies. Photocopy service is subject to sales tax.
- Faxes. Facsimile service is not subject to sales tax.

Recreation Fees

In addition to lodging services, lodging establishments may invoice recreational fees, such as court or green fees, charges for sports lessons, lift tickets, equipment rentals, apparel and the like. If these charges are part of a “package” price to include lodging services the fee is subject to both sales and lodging tax if locally enacted. However if itemize separately from the lodging service and any other taxable charges on the patron’s invoice the fee will maintain its own unique tax consequence.

Green fees for access to a particular golf course, court fees paid to use a tennis court, basketball court or similar facility, gym fees to access either an on-site or third party’s workout facility and ski lift tickets are not subject to Wyoming sales tax. These fees are not themselves a lodging service nor are they paid for admission to a place of recreation, entertainment, amusement, game or athletic event. These fees are user fees for access and are not taxable. Furthermore, tennis lessons, riding lessons, ski lessons and similar fees paid for instruction are not subject to Wyoming sales tax. In addition fees paid by guests to play arcade or video games are also not subject to tax as the games themselves are not “places” in the taxable sense.

Although the fees to use the above facilities and/or receive lessons is not subject to tax, charges to purchase or rent sports equipment, such as tennis rackets, golf shoes, clubs, balls, skis, riding tack, etc. are taxable to the guest. Moreover, if the guest is invoiced for equipment sales or rentals as part of a sports package including recreation fees and/or lessons the entire charge is subject to sales tax.

Specific to Recreation Fees the following applies:

- Court fees. Fees paid to use a tennis court, basketball court or similar facilities are not subject to tax, unless provided as part of a lump-sum package that contains taxable elements.
- Green fees. Green fees, or the fees paid to play golf, are not subject to tax, unless provided as part of a lump-sum package that contains taxable elements.
- Gym fees. Fees paid to use a gym are not subject to tax, unless provided as part of a lump-sum package that contains taxable elements.
- Ski lift tickets. Ski lift tickets are not subject to tax, unless provided as part of a lump-sum package that contains taxable elements.
- Lessons. Fees paid for tennis, riding or other lessons are not subject to tax, unless provided as part of a lump-sum package that contains taxable elements.
- Arcade games. Fees paid to play arcade or video games are not subject to sales tax, unless provided as part of a lump-sum package that contains taxable elements.
- Equipment fees. Fees paid to rent sports equipment such as tennis rackets, golf shoes, basket balls, and riding tack are subject to sales tax. [W.S. 39-15-103(a)(i)(B)]

Food & Beverage Services

Many lodging establishments also provide some level of food and beverage service. Some establishments provide complimentary breakfast and/or in-room coffee and tea service. On occasion the establishment will feature an on-site restaurant. This restaurant may be owned by the same party as the owner of the lodging establishment or may instead rely on a lease and

operating agreement between unrelated parties. Often times the agreement also contains provisions for employee meals, complementary meals, and room service among others.

When a lodging establishment purchases food that it intends to resell through its restaurant, gift shop or provide as part of a continental breakfast or in-room coffee/tea service, these purchases may be made without the payment of Wyoming sales tax on a wholesale for resale basis. This enables the taxing event to be shifted to the retail transaction with the guest. In the case of prepared meals purchased by a patron in the restaurant or through room service, sales tax is applied to the sales price of these meal and beverage purchases including any room service fee that may be applied. In the case of food items provided as part of the continental breakfast or in-room coffee/tee service, sales tax and lodging tax are ultimately applied to these items as a component of sales price of the lodging service provided. Lastly when the food is sold thorough the lodging establishment's gift shop, sales tax is applied based on the tax consequence of the individual product as either food for domestic home consumption (i.e. an exempt guest purchase) or as prepared food (i.e. a taxable guest purchase). Under the same line of thinking the lodging establishment can purchase disposable Styrofoam containers, doggy bags and disposable plates, cups, flatware and napkins it will use as part of the continental breakfast or in-room beverage service without the payment of sales tax on a wholesale for resale basis.

Meals that are provided to employees for either the same price as available to the general public or at a discounted rate are subject to Wyoming sales tax based on the price paid by the employee. However meals furnished by a food establishment licensed under W.S. 35-7-124 without charge to the employee for consumption on the premises is exempt from Wyoming sales tax. Furthermore meals provided to employees for free under this exemption are also not taxable to the establishment.

Further discussion regarding Food for Domestic Home Consumption as well as Prepared Foods is available in our Food bulletin.

Specific to Food & Beverage Services the following applies:

- Meals. Wyoming imposes sales tax on all meals at any place where they are regularly sold to the public.
- Room service. A fee charged to provide room service is part of the sales price of the meal, and is subject to sales tax.
- Beverages. Beverages served as prepared food for immediate consumption are subject to sales tax. This includes beverages served in a glass with ice or in a disposable cup with a lid and straw. These may be served in a hotel restaurant or bar, or through room service or a banquet. Bottled, boxed, powdered or canned beverages purchased from a gift store are considered "food for domestic home consumption" and are exempt. Effective July 1, 2011 food sold through vending machines that meet the definition of "food for domestic home consumption" are exempt from sales tax.
- Alcoholic beverages. Wyoming imposes sales tax on all retail sales of alcoholic beverages.
- Employee meals. Lodging vendors often provide employees meals at discount or free.
 - Discounted meal. A meal sold to an employee at a discounted rate or for the same rate as available to the general public is subject to sales tax.

- Free meal. A meal furnished by a food establishment licensed under W.S. 35-7-124 without charge to an employee for consumption on the premises is sales tax exempt for both the establishment and the employee.
- Containers. Purchases of disposable Styrofoam containers and “doggie bags” are purchases for resale and not subject to the sales or use tax if the cost of such items is part of the overall charge for a meal.
- Food products included in the cost of the lodging charge, i.e. continental breakfast, in-room coffee and condiments, are exempt from sales tax as a wholesale for resale purchase by the hotelier. The guest pays sales and appropriate lodging tax on these items as part of the lodging service.
- Food. Prepared food for immediate consumption is subject to sales tax. “Prepared food” means food sold in a heated state or heated by the seller; two or more food ingredients mixed or combined by the seller for sale as a single item; or food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A container or package used to transport the food is not an eating utensil.” Prepared foods may be served in a hotel restaurant or bar, or through room service or a banquet.
 - Food items that may typically be purchased from a hotel gift store are considered “food for domestic home consumption” and are exempt from sales tax.
 - Effective July 1, 2011 food sold through vending machines will also be exempt from sales tax provided it otherwise meets the definition of “food for domestic home consumption.”
- Mini bar. Wyoming imposes sales tax on all items sold via a mini bar, including bottled water, as these items are considered to be intended for immediate consumption.

Gratuities

Effective July 1, 2013 gratuities charged on meals and cover charges were excluded from the taxable base of a retail sale. As a result both voluntary and mandatory gratuities were not subject to Wyoming sales tax as of July 1, 2013 when these charges are applied to meals and cover charges at any place where meals are regularly served to the public but were taxable when placed on an invoice for any other type of sale. However, in order for the gratuity maintain its non-taxable quality, it has to be separately stated and distinguishable from the taxable meal or cover charge otherwise the entire bill of sale, invoice or similar was subject to Wyoming sales tax. It is not sufficient that those charges could be itemized internally; they must be evident on the transaction documents and also those documents available to an auditor in the event of an audit.

Effective July 1, 2014 this was expanded by the creation of W.S. 39-15-105(a)(v)(D) to exempt gratuities or tips which are offered to tipped employees as specified in W.S. 27-4-202(b) whether they are offered voluntarily by the consumer or invoiced by the seller. To clarify, W.S. 27-4-202(b) describes tipped employees as those who are paid a wage of not less than two dollars and thirteen cents (\$2.13) per hour. W.S. 27-4-202(b) goes on to say if the wage plus the tips received by the employee during a given pay period does not equal at least the applicable minimum wage as prescribed in subsection (a) of this section, the employer is required to pay the difference to the tipped employee. For the purposes of this act, all "tip" employees are required to furnish monthly to their respective employers the daily record of tips required to be kept by "tip" employees under the laws of the United States and upon the forms prescribed by the internal revenue service of the United States treasury department. The daily record of tips shall constitute prima facie proof of the amount of tips received by the employee. Proof of a

customary tipping percentage of sales or service shall also be an admissible form of proof of the amount of tips. A "tip" employee is one who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips.

While this generally does still invoke the thought of a gratuities application to restaurant servers the exemption for gratuities as it applies to meals and cover charges is still separate from the new statute that exempt gratuities offered to "tipped" employees. And the result is that it opens the exemption to gratuities offered to employees of other tipped employee occupations including valet or parking attendants, door persons and car wash attendants, to name a few.

Please note however that the exemption is for gratuities both for meals and cover charges as well as for tipped employees in other fields it does not exempt compulsory service charges, regardless of occupation. Service charges are considered part of an employer's gross receipts, or part of the sales price of a product or service, and sums distributed to employees from service charges are not counted as tips received, even when they are partially or fully distributed to employees. Thus service charges, when applied to taxable sales and services, are subject to Wyoming sales tax.

Parking & Transportation

When transportation services, such as a shuttle to or from the airport, are provided by the lodging establishment and the guest is charged for such services, the charges are subject to Wyoming sales tax as a sale of intrastate transportation of passengers. However if the establishment provides a free shuttle to their guest, under those circumstances there is no taxing event. Furthermore charges by a lodging establishment to guests for valet parking or to reserve specific parking in a parking structure are not subject to Wyoming sales tax.

Charges for intrastate transportation of employees to or from their place of work are exempt from Wyoming sales tax when it is contracted or paid for by the either employee or employer.

Specific to Parking & Transportation Services the following applies:

- Garage parking. Charges for parking a guest's vehicle in the hotelier's parking garage are not subject to sales tax.
- Shuttle service. Charges for intrastate transportation of passengers are subject to sales tax. This creates parity for those providing similar services who are not lodging vendors, e.g. local taxis and public shuttle services. We realize that the industry norm is for lodging vendors to provide free shuttles. Thus under those circumstance there is no sales tax event.
- Valet parking. Charges for valet parking are not subject to sales tax.
- Employee transportation. Charges for intrastate transportation of employees to or from work when paid or contracted for by the employee or employer are sales tax exempt.

Gift Shop

Items purchased in a lodging establishment's gift shop on par with sales of similar products in other environments. In Wyoming all sales of tangible personal property are subject to sales tax unless an exemption applies. At the time of purchase by the lodging establishment, tangible personal property to be sold in the gift shop may be purchased without the payment of sales tax on the basis of resale. This then delays the taxing event until the retail sale with the guest. The lodging establishment would collect and remit sales tax on their sales of magazines, periodicals, trade journals, over the counter medicines, sundries, apparel, electronics, phone cards, tobacco

products, and any other items of tangible personal property not protected by exemption. Those foods that meet the definition of ‘food for domestic home consumption’ as well as newspapers and stamps would be exempt from Wyoming sales tax. Further discussion regarding Food for Domestic Home Consumption as well as Prepared Foods is available in our Food bulletin.

Specific to Gift Shop Purchases and Sales the following applies:

- Items. Unless an exemption exists, all retail sales of tangible personal property in Wyoming are subject to sales tax.
- Food and beverages items that are not “prepared” are exempt as “food for domestic home consumption.”
- Magazines. Sales of magazines, periodicals, and trade journals shall be considered retail sales and shall be subject to sales tax.
- Medications. All retail sales of over-the-counter medications such as aspirin, acetaminophen and cold remedies are subject to sales tax.
- Newspapers. Newspapers are publications that are printed on newsprint and are distributed daily, weekly, or at other intervals and are used to disseminate news of a general character and of a general interest. The retail sale of newspapers is exempt from sales tax.
- Phone cards. Pre-paid telephone cards or similar items which entitle the purchaser to receive telephone services are tangible personal property and thus subject to sales tax.
- Stamps. The sale of postage stamps is not subject to sales tax.
- Tobacco. All retail sales of cigarettes and other tobacco products are subject to sales tax.

Guides and Outfitters

Guides and outfitters provide personal services to clients wishing to experience outdoor recreational activities and/or for the purpose of hunting animals. Guides and outfitters not only provide their skill and direction but in most cases also provide lodging services, meals, equipment and other services. When invoicing these services, it is necessary for the guide or outfitter to separately state and make distinguishable the taxable charges from the non-taxable charges on their billing invoice to the client otherwise the entire invoice amount is subject to Wyoming sales tax.

Guide Services

Fees paid specifically for the skill and direction of a guide are not subject to tax. However, these fees must be separately stated and distinguishable from any taxable items on the same invoice.

Lodging Services

Sales of temporary lodging services by a guide or outfitter to include sleeping accommodations, placement of tents, snow shelters, base camps, temporary structures which are dismantled or abandoned after use and all other forms of temporary shelter are exempt from the lodging tax imposed by W.S. 39-15-204(a)(ii). They are still subject to the sales tax, but are exempt from any additional lodging tax normally imposed. Lodging services purchased by a licensed guide or outfitter from another lodging provider may be purchased without the payment of sales tax on the basis of resale. The sales tax would then be collected from the outfitter’s customer and remitted by the outfitter directly to the department. As far as the lodging tax, this is not exempt and the outfitter would be responsible for paying the lodging tax directly to the lodging provider.

Food/Meals

Food purchased by licensed guides and outfitters is tax exempt on the basis for resale and the appropriate sales tax is in turn collected by them from their clients based on the sales price paid for the meal. Unless an exemption exists, Wyoming imposes sales tax on the sales price paid for meals where they are regularly served to the public. Similar to a restaurant or concessionaire providing food for immediate consumption, providing meals and/or snacks to clients while they are out in the field is subject to Wyoming sales tax.

Sales and Leases/Rentals of Tangible Personal Property

Apparel, supplies and equipment are tangible personal property. Sales or rentals of tangible personal property by a guide or outfitter are subject to Wyoming sales tax.

Field Dressing Service

Field dressing, meat cutting and butchering services are considered to be services performed which alter tangible personal property (i.e. the animal being harvested) and are subject to Wyoming sales tax per W.S. 39-15-103(a)(i)(J).

Campgrounds & RV Parks

Campgrounds and RV Parks provide lodging services and are treated for tax purposes akin to their counterparts with brick and motor properties. Site fees charge for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations are subject to Wyoming sales tax and lodging tax if locally enacted. Wyoming requires the vendor to collect and remit these taxes on the sales price paid for such service. So in short, if a space without amenities is offered for a price for \$50 per night and a space with amenities for \$75 per night, sales and lodging taxes would be collected based on the sales price offered to each guest. For those establishments that allow sewage dumping in authorized receptacles apart from the lodging service, charges for sewage dumping is not subject to Wyoming tax as it is merely a sanitation service that is not directly taxed in the Wyoming statutes. Again separate charges for this service must be separately stated and distinguishable on the invoice, bill of sale or similar document exchanged between buyer and seller.

Exempt Entities

Wyoming recognizes several entities that may make purchases of lodging services exempt from Wyoming sales and lodging taxes. We will address each below but common to them all is the requirement that the purchase be properly documented. Any Wyoming purchaser claiming exemption from Wyoming sales tax and lodging tax is required to provide the lodging establishment with a properly completed Streamlined Sales and Use Tax Agreement (SSUTA) Certificate of Exemption. Out of State purchasers may either provide a copy of the SSUTA form or a complimentary form containing the same data elements and recognized for valid use by their home state. Blank copies of the SSUTA form are available on our website, <http://revenue.wyo.gov> and may be provided for guest use so long as use does not constitute misuse or fraud.

The second requirement common to all parties seeking exemption is that the purchase be made and billed to the exempt party directly. Any guest making payment with personal funds, even when the person will later be reimbursed by the organization, cannot utilize the exemption afforded to the exempt entity. Personal payment establishes that the party is acting on their own behalf.

United States Government

The United States Government issues four (4) types of credit cards for employee use: Fleet, Purchase, Travel and Combined. As a group they are called SmartPay cards. SmartPay cards may either be centrally billed to the federal government and are paid directly by the federal government or may be billed to the individual with reimbursement by the federal government. Examples of SmartPay cards are pictured below.

Provided the guest provides the lodging establishment with a properly completed exemption certificate and all payments are billed to and paid by the federal agency itself, the purchase is exempt from Wyoming sales tax.

United States Government SmartPay Cards:



Foreign Diplomats

The United States Department of State issues Diplomatic Tax Exemption Cards to eligible foreign diplomatic and consular missions and in most cases to their personnel and eligible family members located in our country. These cards may be issued to either the mission for official purchases or an individual within the mission for personal purchases and contain the name of the individual responsible for purchases, his or her photograph, the name of the mission they are employed by, the expiration date of the card as well as the protocol identification number. Examples of Diplomatic Tax Exemption Cards are pictured below.

Not all foreign missions and their personnel are entitled to the same level of tax exemption. The cards may be issued with one of two levels of sales and use tax exemption and will be noted on the face/reverse of the card. As such, not all cards are valid for purchases of lodging services or restaurant meals. Moreover, tax exemption cards are not valid for exemption from taxes on telephones, other utilities, gasoline or automobile purchases.

- Personal. The Personal Tax Exemption Card is valid for personal purchases by the bearer only and subject to the conditions outlined on the card.

- **Mission.** The Mission Tax Exemption Card is used for official purchases of a foreign consulate or embassy. The Mission Card bears the photograph and identification of a consulate, embassy, or international organization employee who has been allowed official purchasing privileges for that office. All purchases must be made in the name of the mission and paid for with an official check or credit card bearing the name of the Mission (not cash or personal check). For example, the purchasing agent might use the card to buy office supplies or to book twenty hotel rooms for a visiting official delegation from that foreign country, providing the reservation in the name of the Mission and remitting payment by a mission check or credit card. The Mission Tax Exemption Card is not transferable, and is not to be used for personal purchases.

It is our anticipation that those carrying Diplomatic Tax Exemption Cards will be unfamiliar with the SSUTA form. Nevertheless it must be completed. It is also recommended that the lodging establishment obtain a copy of the Diplomatic Tax Exemption Card as well. Then, so long as the exemption is valid for lodging services and the payment is made by the appropriate party, the purchase is exempt from Wyoming sales tax.

Diplomatic Tax Exemption Cards:



State of Wyoming or Its Political Subdivisions

The State of Wyoming and its political subdivisions are exempt from Wyoming sales tax. However, as noted above, the governmental entity must pay the bill directly. Any employee paying with personal funds pending a reimbursement from the agency must pay the sales and lodging taxes as the employee is not the exempt entity. Many Wyoming towns, cities, counties, school districts and community colleges issue credit cards to their employees to simplify billing procedures. Some of these credit cards are billed to the agency but some are billed to the employee. When faced with this scenario, it is important to inquire with the cardholder where the bill is sent. If the bill is sent to the cardholder who is then reimbursed for his or her travel expenses, all applicable sales and lodging taxes apply. If the cardholder indicates that the bill is sent to the political subdivision, the cardholder may then provide the lodging establishment with a properly completed SSUTA form and purchase his lodging services and any other property or services without the payment of Wyoming sales or lodging taxes. As a reminder, the form should be completed in the name of the political subdivision, not the name of the employee. The political subdivision is the entity capable of purchasing the service exempt, not the employee.

In years past a vendor was able to tell by a credit cards digit sequence whether or not it was billed to the State of Wyoming or one of its political subdivisions. For security purposes that is

not the case and it has not been so for many years. It is advisable not to use this antiquated method to determine tax liability.

Finally with regard to interstate travel by employees of other states and their political subdivisions, Wyoming does not provide sales tax exemption to state or local governments of other states. This includes other state's public universities.

Schools

Wyoming public K through 12 schools are exempt from Wyoming sales and lodging tax as political subdivisions of the state of Wyoming. However this exemption does not extend to out-of-state public schools, even when paid for by the school district directly. Wyoming does not recognize sales tax exemption for other state governments or their political subdivisions. Further we do not administer sales or lodging tax exemptions to state or out-of-state private schools unless they qualify as a religious or charitable organization. Please see the discussion on Religious & Charitable Organizations that follows.

Educational institutions that provide dormitory space to students do not charge sales or lodging taxes if the rooms are rented for continuous periods longer than twenty-nine (29) days. Should the institution provide lodging accommodations to transient guests, such as a nightly rate during school breaks or during campus visits, those sales of lodging services are subject to Wyoming sales tax.

Religious & Charitable Organizations

Purchases made by religious or charitable organizations in or for their regular religious or charitable functions and activities are exempt from Wyoming sales tax, use tax and lodging tax. We grant sales and lodging tax exemptions to religious and charitable organizations that qualify under our Statutes and Rules. Although not statutorily required to do so, organizations may present documentation of their religious or charitable status to our office to support their claim for exemption in lieu of making self-determination. A detailed discussion on the exemption as well as the documents to be submitted to our office for entities wishing to provide documentation is available in our Religious and Charitable Organization's bulletin. Entities obtaining approval will be issued a Letter of Authority from our office containing their Wyoming Revenue Identification (RID) number. This RID number, if obtained, would be indicated on the SSUTA form under the heading Purchasers Tax Identification Number. Please note while it was once mandatory for religious and charitable organizations to obtain prior approval of exemption from our office it is no longer required nor is it required that the organization provide a copy of their Letter of Authority to qualify for exemption.

Again, as noted previously, in order for a religious or charitable organization to properly document their exempt travel they must provide the lodging establishment with a properly completed SSUTA form in the name of the organization and payment must be billed to and paid by the organization. Payment by an employee or other person pending reimbursement establishes that the person is acting on their own behalf and voids any claim of exemption.

Resort Districts

Resort District fees are not the same as resort fees discussed earlier in this publication. Resort districts are economic centers recognized by the Wyoming legislature beginning in 2003. To date only one resort district exists in Wyoming, the Teton Village Resort District.

Resort Districts may authorize, with voter approval, a resort district excise tax. This tax is collected only by vendors within the district and only for sales within the district. Vendors physically located within the district must also remit the resort district excise tax on their purchases that are subject to use tax. The tax dollars generated by this tax are earmarked for infrastructure development within the resort district. In a lodging context, vendors providing lodging services within the resort district are required to collect and remit not only the sales and lodging tax but also the applicable resort district tax. Further discussion on the proper application of taxes in a Resort District is available in our Resort District bulletin.

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. For this reason, general use Publications and Bulletins do not constitute a revenue tax ruling or a binding letter ruling of the Department of Revenue per W.S. 39-111-102(a)(i)(D). If your situation is markedly different or you have concerns about any issue contained in this publication, please do not hesitate to contact this department. You can do so by e-mail directed to DOR_taxability@wyo.gov

The preceding information is based on the following statutes and rules enacted by the Wyoming Legislature and the Department of Revenue's rulemaking authority.

W.S. 27-4-202(b) states:

Effective April 1, 2001 and thereafter, all employers who employ tipped employees shall not pay less than two dollars and thirteen cents (\$2.13) per hour to his tipped employees. Provided further, if the wage paid by the employer combined with the tips received by the employee during a given pay period does not equal at least the applicable minimum wage as prescribed in subsection (a) of this section, the employer shall pay the difference to the tipped employee. For the purposes of this act, all "tip" employees shall furnish monthly to their respective employers the daily record of tips required to be kept by "tip" employees under the laws of the United States and upon the forms prescribed by the internal revenue service of the United States treasury department. The daily record of tips shall constitute prima facie proof of the amount of tips received by the employee. Proof of a customary tipping percentage of sales or service shall also be an admissible form of proof of the amount of tips. A "tip" employee is one who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips.

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

"Lodging service" means the provision of sleeping accommodations to transient guests and shall include the providing of sites for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations for transient guests;

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

"Lodging tax" means the excise tax imposed on lodging services;

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)(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. 39-15-101(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)(xiv) states:

"Transient guest" means a guest who remains for less than thirty (30) continuous days;

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)(xli) states:

"Food" means food for domestic home consumption as defined by department rule and regulation;

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

"Specified digital products" means electronically transferred:

(A) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(B) "Digital audio works" which means works that result from the fixation of a series of musical, spoken or other sounds, including ringtones; or

(C) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.

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

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

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

W.S. 39-15-103(a)(i)(B) states: Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

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)(C) states:

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

The sales price paid for intrastate telecommunications services including the consideration paid for the sale, rental or leasing of any equipment or ancillary services incidental thereto, and the sales price paid for intrastate calls which originate and terminate in a single state and are billed to a customer with a place of primary use in this state from mobile telecommunications services as provided by the Mobile Telecommunications Sourcing Act, 4 U.S.C.116 through 126. The definitions and provisions of the Mobile Telecommunications Sourcing Act shall apply to this article;

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

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

The sales price paid to carriers for intrastate transportation of passengers;

W.S. 39-15-103(a)(i)(F) reads:

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

The sales price paid for meals and cover charges, excluding all gratuities regardless of whether offered by the customer or invoiced by the seller, at any place where meals are regularly served to the public;

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

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

The sales price paid for living quarters in hotels, motels, tourist courts and similar establishments providing lodging service for transient guests;

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

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

The sales price paid for each admission to any place of amusement, entertainment, recreation, games or athletic event. If any persons other than employees, officers of the law on official business or children under twelve (12) years of age are admitted free or at reduced rates to any such place when an admission charge is made to other persons, an equivalent tax shall be paid by these persons based on the price charged to other persons;

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

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

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

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

Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

The sales price paid for alcoholic beverages;

W.S. 39-15-103(a)(i)(P) states: Except as provided by W.S. 39-15-105, there is levied an excise tax upon:

Except as otherwise provided in this subparagraph, the sales price of every retail sale of specified digital products within the state. A sale of specified digital products is only subject to the tax under this section 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.

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

For the purpose of exempting sales of services and tangible personal property which are protected by the United States constitution and the Wyoming constitution, the following are exempt: Sales which the state of Wyoming is prohibited from taxing under the laws or constitutions of the United States or Wyoming.

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

For the purpose of exempting sales of services and tangible personal property consumed in production, the following are exempt: The cost of food or meals furnished by a food establishment licensed under W.S. 35-7-124 without charge to an employee for consumption on the premises is not taxable either to the establishment or the employee.

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

For the purpose of exempting sales of services and tangible personal property sold to government, charitable and nonprofit organizations, irrigation districts and weed and pest control districts, the following are exempt: Sales to the state of Wyoming or its political subdivisions;

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

For the purpose of exempting sales of services and tangible personal property sold to government, charitable and nonprofit organizations, irrigation districts and weed and pest control districts, the following are exempt: Sales made to religious or charitable organizations including nonprofit organizations providing meals or services to senior citizens as certified to the department of revenue by the department of health in or for the conduct of the regular religious, charitable or senior citizen functions and activities and sales of meals made to persons in regular conduct of senior citizen centers functions and activities;

Effective July 1, 2014, W.S. 39-15-105(a)(v)(D) reads:

For the purpose of exempting sales of services and tangible personal property which are alternatively taxed, the following are exempt: Gratuities or tips which are offered to tipped employees as specified in W.S. 27-4-202(B) are exempt from the tax whether offered by the consumer or separately invoiced by the seller.

W.S. 39-15-105(a)(vi)(E) states: For the purpose of exempting sales of services and tangible personal property which are essential human goods and services, the following are exempt: Sales of food for domestic home consumption.

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

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. 39-15-105(a)(viii)(D) states:

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

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

For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt: Sales of lodging services provided by a person known to the trade and public as a guide or outfitter, including but not limited to sleeping accommodations, placement of tents, snow shelters, base camps, temporary structures which are dismantled or abandoned after use and all other forms of temporary shelter are exempt from the excise tax imposed by W.S. 39-15-204(a)(ii) as distributed by W.S. 39-15-211(a)(ii);

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:

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 whether the vendor sells cigarettes, cigars, snuff or other tobacco products in this state to the 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:

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. 39-15-203(a)(ii) states:

The following provisions apply to imposition of the lodging excise tax under W.S. 39-15-204(a)(ii):

(A) The tax on lodging services authorized by W.S. 39-15-204(a)(ii) shall be in addition to and not in lieu of the tax authorized by W.S. 39-15-204(a)(i) and (iii) if both taxes are imposed. If the proposition to impose a tax on lodging services within the county is approved in accordance with subparagraph (B) of this paragraph, a city or town shall not impose a lodging tax in addition to the county wide tax even though the additional tax does not exceed the limitation established under W.S. 39-15-204(a)(ii);

(B) No tax shall be imposed under W.S. 39-15-204(a)(ii) until the proposition to impose the taxes is submitted to the vote of the qualified electors of the county or of a city or town if the proposition is to impose the tax only city wide or town wide, and a majority of those casting their ballots vote in favor of imposing the taxes. A county may impose both taxes authorized in W.S. 39-15-204(a)(i) and (ii), but the proposition to impose each tax shall be individually stated and voted upon. Except as otherwise provided, excise taxes imposed under this paragraph shall commence as provided by W.S. 39-15-207(c) following the election approving the imposition of the tax;

(C) The proposition to impose an excise tax shall be at the expense of the county and be submitted to the electors of the county upon the receipt by the board of county commissioners of a petition requesting the election signed by at least five percent (5%) of

the electors of the county or of a resolution approving the proposition from the governing body of the county and the governing bodies of at least two-thirds (2/3) of the incorporated municipalities within the county. If proposed by petition by electors, the number of electors required shall be determined by the number of votes cast at the last general election. The election shall be at the direction and under the supervision of the board of county commissioners;

(D) The proposition may be submitted at an election held on a date authorized under W.S. 22-21-103. A notice of election shall be given in at least one (1) newspaper of general circulation published in the county in which the election is to be held or in the city or town if only a city wide or town wide tax is proposed, and the notice shall specify the object of the election. The notice shall be published at least once each week for a thirty (30) day period preceding the election. At the election the ballots shall contain the words "for the county (or city or town) lodging tax" and "against the county (or city or town) lodging tax". If the proposition is approved the same proposition shall be submitted at subsequent general elections as provided in this subparagraph until the proposition is defeated. If the proposition to impose the lodging tax pursuant to W.S. 39-15-204(a)(ii) is approved, the same proposition shall be submitted, until defeated, at the second general election following the election at which the proposition was initially approved and at the general election held every four (4) years thereafter. If a county, city or town has in place a lodging tax pursuant to W.S. 39-15-204(a)(ii), either through a petition or by request of the county, city or town, the proposition posed at the next election may contain a larger tax not to exceed four percent (4%);

(E) If the proposition to impose or continue the tax is defeated the proposition shall not again be submitted to the electors of the county for at least eleven (11) months. If the proposition is defeated at any general election following initial adoption of the proposition the tax is repealed and shall not be collected following June 30 of the year immediately following the year in which the proposition is defeated;

(F) If the proposition is approved by the qualified electors the board of county commissioners, city council or town council, as appropriate, shall by ordinance impose an excise tax upon the sales price for lodging services. Following approval of a proposition to impose the tax, the county, city or town shall within thirty (30) days following certification of the election results and annually thereafter each year the tax is in effect, notify the department of revenue of the ordinance or resolution imposing the lodging tax and shall submit a list to the department of all persons selling lodging services within their respective jurisdiction. The board of county commissioners or the city or town council shall adopt an ordinance for the tax authorized by this paragraph. The ordinance shall include the following:

(I) A provision imposing an excise tax on every sale of lodging services within the county, city or town at the rate approved by the qualified electors, whichever is appropriate;

(II) Provisions identical to those contained in article 1 of this chapter except for W.S. 39-15-102(a), insofar as it relates to sales taxes except the name of the county as the taxing agency shall be substituted for that of the state and an additional license to engage in business shall not be required if the vendor has been issued a state license pursuant to law;

(III) A provision that any amendments made to article 1 or to chapter 16 not in conflict with article 1 of this chapter or to chapter 16 shall automatically become a part of the sales tax ordinances of the county, city or town;

- (IV) A provision that the county, city or town, as appropriate, shall contract with the department prior to the effective date of the county sales tax ordinances whereby the department shall perform all functions incident to the administration of the sales tax ordinances of the county, city or town;
- (V) A provision that the amount subject to the tax shall not include the amount of any sales tax imposed by the state of Wyoming.
- (G) No person shall be liable for payment of the tax imposed under W.S. 39-15-204(a)(ii) for any sale of lodging services made more than one (1) year prior to the date he is notified by the department of revenue of his liability for the tax.

W.S. 39-15-204(a) states:

In addition to the state tax imposed under W.S. 39-15-101 through 39-15-111 any county of the state may impose the following excise taxes and any city or town may impose the tax authorized by paragraph (ii) of this subsection and any resort district may impose the tax authorized by paragraph (v) of this subsection:

- (i) An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of two percent (2%) upon retail sales of tangible personal property, admissions and services made within the county, the purpose of which is for general revenue;
- (ii) An excise tax at a rate in increments of one percent (1%) not to exceed a rate of four percent (4%) upon the sales price paid for lodging services as defined under W.S. 39-15-101(a)(i), the primary purpose of which is for local travel and tourism promotion;
- (iii) An excise tax not to exceed two percent (2%) upon retail sales of tangible personal property, admissions and services made within the county. The total excise tax imposed within any county under this paragraph shall not exceed two percent (2%). The revenue from the tax shall be used in a specified amount for specific purposes authorized by the qualified electors. Specific purposes shall not include ordinary operations of local government except those operations related to a specific project;
- (iv) In no event shall the total excise tax imposed within any county under the provisions of paragraphs (i), (iii) and (vi) of this subsection exceed three percent (3%);
- (v) An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of three percent (3%) upon retail sales of tangible personal property, admissions and services made within the district by vendors physically situated within the district, the purpose of which is for general revenue for the resort district;
- (vi) An excise tax at a rate in increments of one-quarter of one percent (.25%) not to exceed a rate of one percent (1%) upon retail sales of tangible personal property, admissions and services made within the county, the purpose of which is for economic development.

W.S. 39-15-301(a)(i) states:

"Contractor" means any general or prime contractor or subcontractor;

W.S. 39-15-301(a)(ii) states:

"General or prime contractor" means:

- (A) Any person who agrees with the owner or lessee of real property in this state to perform services or furnish materials and services for the construction, alteration, improvement or repair of real property in this state; or
- (B) Any person who acts in behalf of the owner or lessee of real property in this state to arrange for the furnishing of services or the furnishing of materials and services for the construction, alteration, improvement or repair of real property in this state; or

(C) Any person who owns or leases real property in this state for the purpose of developing that property and in the development thereof alters or makes improvements to the property or contracts for the alteration or improvement of the property.

W.S. 39-15-303(b)(i) states:

Any contractor who furnishes tangible personal property under contract or in the development of real property is the consumer or user of the tangible personal property within the meaning of the sales tax laws of Wyoming;

W.S. 39-16-303(b)(i) states:

Any contractor who furnishes tangible personal property under contract or in the development of real property is the consumer or user of the tangible personal property within the meaning of the use tax laws of Wyoming;

WY Dept of Rev Rules, Chap 2, Sec 2(p) states:

“Prepared food” means food sold in a heated state or heated by the seller; two or more food ingredients mixed or combined by the seller for sale as a single item; or food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

(i) “Prepared food” does not include:

- (A) Food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in chapter 3, part 401.11 of its Food Code so as to prevent food borne illnesses.
- (B) Food sold in an unheated state by weight or volume as a single item;
- (C) Food sold by a seller whose proper primary NAICS classification is food manufacturing; or
- (D) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies or tortillas which are sold for other than immediate consumption.
- (E) “Dietary Supplements” including vitamins, minerals, botanicals, amino acids and other substances used to enhance dietary health.

WY Dept of Rev Rules, Chap 2, Sec 2(w) states:

“Newspaper” means a publication that is printed on newsprint and is distributed daily, weekly, or at other intervals and is used to disseminate news of a general character and of a general interest. This includes magazines, handbills, circulars, advertising flyers, sales catalogs, or other such printed materials when they are distributed and sold as part of the newspaper.

WY Dept of Rev Rules, Chap 2, Sec 4(b) states:

Governmental Entities. The retail sale, lease, or rental of tangible personal property or taxable services by the State of Wyoming or its political subdivisions shall be subject to the sales/use tax. The governmental entity shall be considered a vendor and shall be licensed and collect tax on taxable transactions.

WY Dept of Rev Rules, Chap 2, Sec 5(h) states: Merchandise Used or Consumed by Vendors. Tangible personal property removed from inventory by the vendor for business or personal

consumption shall be subject to sales/use tax. The purchase price of the property shall be deemed as the tax basis.

WY Dept of Rev Rules, Chap 2, Sec 5(j) states:

Invoices, Bills of Sale, and Receipts. Each vendor of tangible personal property or services upon which a sales or use tax is imposed shall provide a receipt to the purchaser, except as stated in (k) which follows. The vendor must retain copies of all such receipts containing the following:

- (i) Vendor's name and address;
- (ii) Full and accurate description of the property or service sold (make, model, year, serial number);
- (iii) Date of sale;
- (iv) Discounts, trade-in allowances, and manufacturers' rebates for motor vehicles;
- (v) Net sales price; and
- (vi) Sales/use tax paid by the purchaser.

WY Dept of Rev Rules, Chap 2, Sec 5(k) states:

Taxes Calculated on Gross Receipts. This method of taxing sales is only allowed when a receipt is not provided to the consumer as part of the sale. Where receipts do not accompany each sale e.g. (coin operated vending sales, bar sales and cover charges, admission tickets and concessions vendors must maintain records of tax calculated on the following formula:

$$\text{Tax} = \text{Gross Receipts} - (\text{Gross Receipts} \div (1 + \text{Tax Rate}))$$

$$\text{Example Gross Receipts} = \$1,000$$

$$\text{Tax Rate} = 6\%$$

$$\text{Tax} = \$1,000 - (\$1,000 \div (1 + .06))$$

$$\text{Tax} = \$1,000 - 943.40$$

$$\text{Tax} = 56.60$$

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

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 7(b) states:

Certificates of Exemption.

- (i) Vendors shall obtain completed exemption certificates for all sales transactions, other than those qualifying under Section 6 of these rules, where sales tax is not collected from the purchaser at the time of sale. Purchasers shall file a single exemption certificate with each selling vendor for exempt purchases made. The certificate shall be in a format as prescribed by the Streamlined Sales and Use Tax Agreement and shall be retained in the selling vendor's records. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase. A purchaser is not required to provide a signature to claim an exemption from tax unless the paper exemption certificate is used. The seller shall use the standard format for claiming an exemption electronically when that format is adopted by the Governing Board of the Streamlined Sales Tax Project.

(ii) Vendors shall be relieved of the tax otherwise due if the seller obtains a fully completed exemption certificate or captures the relevant data elements listed in subsection (i) above within ninety (90) days of the date of the sale.

(iii) Should the vendor not obtain an exemption certificate or the required relevant information the vendor shall be allowed 120 days subsequent to a request for substantiation:

(A) To obtain a fully completed exemption certificate from the purchaser taken in good faith which means that the vendor obtains a certificate that claims an exemption that was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced, could be applicable to the item being purchased, and is reasonable for the purchaser's type of business; or

(B) To obtain other information establishing that the transaction was not subject to the tax.

WY Dept of Rev Rules, Chap 2, Sec 7(c)(v) states:

Religious and Charitable Organizations. Organizations operated primarily for religious or charitable purposes shall be exempt from sales and use tax on their purchases. Organizations verifying its federal 501(c)(3) status with the Department shall be issued an exemption approval letter on this documentation alone. All other organizations must furnish the documents set forth in the following subsection. The organizations shall apply to the Department in writing for exemption approval and registration.

(v) Purchases made by religious or charitable organizations in or for their regular religious or charitable functions and activities shall be exempt from the sales and use tax. Purchases made by members or employees of religious or charitable organizations shall be subject to the sales or use tax if not paid directly by the organization.

WY Dept of Rev Rules, Chap 2, Sec 7(d) states:

Employees of Exempt Agencies. Sales to employees of exempt agencies or organizations shall be taxable, even when the employee is reimbursed by the exempt employer. Payment by the employee shall establish that the employee is acting in his own behalf.

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

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(e) states:

Concessions. The operator of any business or concession for the sale of property or services upon which the tax has been imposed at any location including fairgrounds, or in any building of an agricultural fair, carnival, show, circus, public park, wild west show or rodeo, race track, golf club or course, tennis club or court, passenger depot, city or town streets or public highways and similar places shall collect the sales tax and remit it to the Department.

WY Dept of Rev Rules, Chap 2, Sec 13(n) states:

Garbage and Chemical Toilets or Sanitary Services. Charges made for garbage hauling, latrine or sanitary services and similar services shall not be subject to the sales tax. The person providing the container, latrine, or similar container for use in the sanitary or latrine service shall pay the sales or use tax on the purchase of the container.

WY Dept of Rev Rules, Chap 2, Sec 13(q) states:

Laundry, Dry Cleaning, Pressing and Dyeing. The total charge made for performing the service of laundering, dry cleaning, or pressing shall be subject to the sales tax. Sales of materials and supplies which are necessary in performing the taxable service such as detergents, starch, and cleaning solvent shall be considered wholesale purchases or sales. The service of linen and towel supply shall be considered to be a laundry service.

WY Dept of Rev Rules, Chap 2, Sec 13(r) states:

Lodging.

(i) The total amount charged transient guests for board or room or both is subject to the sales tax and any local option lodging tax. The taxable sales price shall include all charges made for all services and supplies furnished in connection with the lodging service. This charge shall include charges for such services as room service meals.

(ii) Charges made by a lodging establishment for facilities other than for lodging, such as meeting rooms, sample rooms and ballrooms shall not be subject to the sales tax.

(iii) A lodging establishment shall be considered to be the consumer of electricity, fuel, linens, cleaning supplies, towels, furniture and other items of tangible personal property necessary for the maintenance of the establishment, and purchases of these items shall be subject to the sales or use tax. Paper cups, hand soap, toilet tissue, paper towels and similar items furnished to guests without additional charge shall be considered to be purchases by the lodging establishment for resale and shall not be subject to sales or use tax. Beverages, food and other convenience items provided to guests shall be considered purchases for resale and not subject to the sales or use tax if the cost of the items is part of the overall charge for lodging services.

(iv) Purchases of intrastate telephone services by the lodging establishment vendor shall be subject to the sales tax. The vendor shall pay tax on the difference between the cost of intrastate telephone service and the total fees collected from customers for intrastate telephone calls.

(v) Where a guest (individual or corporate) contracts for or leases a room for a term of thirty (30) continuous days, or more, there is no sales tax due. In this arrangement, the first twenty-nine days are not taxable because of the intent to lease for thirty (30) or more continuous days. If, for example, a corporation were to rent a room for a term of thirty (30) continuous days or more and rotate employees during the term, it qualifies as nontaxable because the corporation is considered the guest. The contract, lease, or correspondence should clearly indicate this arrangement. If the lodging service ends before the thirtieth day, the sales tax is due.

WY Dept of Rev Rules, Chap 2, Sec 13(t) states:

Magazines and Trade Journals. Sales of magazines, periodicals, and trade journals shall be considered retail sales and shall be subject to sales tax. Sales or use tax is due on purchases of publications to be distributed free of charge.

WY Dept of Rev Rules, Chap 2, Sec 13(z) states:

Printers. Printers produce tangible personal property. The printer's retail sale shall be subject to the sales tax. Printers shall not deduct labor or service charges from the tax base of the sale. When printers purchase cards or envelopes stamped with postage, for the imprinting of legends, the printers shall collect and remit sales tax on the total sales price less the amount

of the postage. All charges made for copying or reproduction services shall be subject to the sales tax.

WY Dept of Rev Rules, Chap 2, Sec 13(bb) states:

Purchases by Businesses. Purchases by businesses and professional persons of equipment, tools and supplies for use in conducting their businesses or professions shall be subject to the sales or use tax.

WY Dept of Rev Rules, Chap 2, Sec 13(cc) states:

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.

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 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(ee) states:

Resorts and Dude Ranches. The provision of meals and lodging service by such establishments shall be subject to the sales tax. If no separate charge for meals and lodging services is made by the vendor from charges made for other exempt services, the sales tax shall be applied to the total amount billed.

(i) Vendors subject to this rule shall be considered to be the consumers of electricity, fuel, linens, bedding, cleaning supplies, towels, furniture and other items of tangible personal property necessary for the operation, furnishing and maintenance of the establishment. As such, those vendors shall be liable for the sales/use tax owed on such purchases. Disposable, non-reusable items such as paper cups, hand soap, toilet tissue and paper towels furnished to guests without additional charge shall be considered purchases for resale and shall not be subject to the sales or use tax.

WY Dept of Rev Rules, Chap 2, Sec 13(ii) states:

Telephone Services. All rentals of equipment or services incidental to intrastate telephone services including but not limited to, the lease or rental of tangible personal property and

access to a telephone transmission system shall be considered retail in nature and shall be subject to the sales tax.

WY Dept of Rev Rules, Chap 2, Sec 13(ll) states:

Vending Machines. Vending machine sales of tangible personal property, except postage stamps and food for domestic home consumption, shall be subject to the sales tax. Prepared food sold in a vending machine shall remain taxable.

- (i) Complete records shall be kept by the vending machine vendor showing the location of each machine operated by the vendor during each monthly period, its serial number and the amount of revenue taken from the machine during each monthly period.

WY Dept of Rev Rules, Chap 2, Sec 13(mm) states: Taxes Calculated on Gross Receipts. Where receipts do not normally accompany each sale (e.g., coin operated vending, bars, movie theaters) vendors shall maintain records of tax calculated based on the following formula:

$\text{Tax} = \text{Gross Receipts} - (\text{Gross Receipts} / (1 + \text{Tax Rate}))$

Example Gross Receipts = \$1,000

Tax Rate = 6%

Tax = \$1,000 - (\$1,000/(1+ .06))

Tax = \$1,000 - 943.40

Tax = 56.60

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

Warranties.

- (i) Standard or mandatory warranties and maintenance contracts provided with the purchase of tangible personal property by the manufacturer or vendor shall be included in the sales price of the tangible personal property.

- (A) Repairs, alterations, or improvements performed upon tangible personal property under a standard warranty shall not be subject to the sales tax.

- (ii) Extended warranties, service and maintenance contracts or similar agreements which are sold for an additional and separate cost and provide additional services or extend the timeframe of service coverage shall not be subject to the sales tax.

- (A) Repairs, alterations, or improvements performed upon tangible personal property under an extended warranty, service contract, or similar agreement shall be subject to the sales tax.

- (I) The consumer shall be liable for the tax on repair services not covered by the agreement. The issuer of the agreement shall be liable for the sales tax on the repair charges covered by the extended warranty.

- (iii) For the purpose of this section a “computer software maintenance contract” is a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both.