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Sales, Use and Lodging
Tax Guidelines for the
Hospitality Industry



The lodging industry faces some unique challenges when it comes to the imposition of sales and lodging taxes. This publication addresses the most commonly asked questions that arise in the hospitality industry. It covers not only the room rental, but associated issues faced by long-term lodging vendors and outfitters. This publication is organized as follows:

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Taxability Determinations

Lodging Service

Transient Guests

- Lodging service is defined as overnight lodging accommodations for transient guests and shall include the providing of sites for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations.[W.S. 39-15-101(a)(i)]
- A transient guest is a guest who remains for less than thirty (30) continuous days. [W.S. 39-15-101(a)(xiv)]
- Lodging tax is an additional excise tax which may be imposed on lodging services upon voter approval. [W.S. 39-15-101(a)(ii), W.S. 39-15-203(a)(ii)(A-G), W.S. 39-15-204(a)(ii)]
- Lodging service is subject to sales tax **and** lodging tax, if imposed in that locality. [W.S. 39-15-103(a)(i)(G), W.S. 39-15-204(a)(ii)]
- If a guest unexpectedly stays for longer than twenty-nine (29) days, the guest is no longer considered a transient guest. The lodging, back to the first day of the guest's occupancy, is not subject to either sales or lodging taxes.
 - On the thirtieth (30th) continuous day, the lodging vendor ceases charging tax from that day forward.
 - The lodging vendor adjusts its next sales/use tax return for any tax remitted by the guest during the stay.
 - Some vendors choose to charge tax to the guest's folio each day but when the stay exceeds twenty-nine (29) continuous days, the tax is credited back to the guest and no future tax is charged to the guest.

Long Term Guests

- A long term guest is an individual or business that contracts for or leases a room for a term of thirty (30) or more continuous days. This transaction is not subject to sales or lodging tax as it is not a taxable event. [*WY Dept of Rev Rules, Chap 2, Sec. 15(r)(v)*]
- 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, and be retained by the vendor per statute for three (3) years for audit purposes. [W.S. 39-15-107(a)(ii) and *WY Dept of Rev Rules, Chap 2, Sec.15(r)(v)*]
- If a guest contracts for a room for thirty (30) or more continuous days, but then departs before the thirtieth (30th) day, the sales and applicable lodging taxes are due.
 - If the guest forfeits a partial refund for the early departure, then sales and lodging taxes are not due. For all intents and purposes, the arrangement was for a month as was the payment.
 - If the guest asks for a prorated refund for the early departure in which the guest did not use the room, the transaction is a taxable provision of lodging services. The hotelier would refund the rental fee for the number of days the guest left early, less the appropriate sales and lodging taxes.

- A formal lease or contract is not required by the Department of Revenue to evidence a long term guest. Yet, in situations where leases or contracts exist, vendors retain copies of such in their business records for audit purposes. [W.S. 39-15-107(a)(ii)]

Rental of Private Residences

- Rental of a private home for the purpose of providing transient lodging is subject to sales tax and applicable lodging tax. [W.S. 39-15-103(a)(i)(G) and W.S. 39-15-204(a)(ii)]
- Sales and lodging taxes apply to all transient lodging rentals for periods of less than thirty (30) continuous days. For stays exceeding twenty-nine (29) continuous days, please refer to long-term guests addressed earlier. [W.S. 39-15-204(a)(ii)]
- Vendors of lodging services for transient guests must obtain a Wyoming sales/use tax license before conducting business as a lodging vendor. For licensing requirements, please contact Vendor Operations at 307-777-3745.

Front Desk Concerns

- **Bundling.** Bundled transactions containing taxable and nontaxable items renders the entire invoice subject to sales and applicable lodging taxes, unless separately stated. [*WY Dept of Rev Rules, Chap 2, Sec. 9(a)*]
- **Complimentary rooms.** Rooms given to tour operators, travel agents and other guests without charge. Hoteliers are permitted to purchase disposable and consumable items placed in the guest room without the payment of tax as tax is collected on the sales price paid for the lodging services. However since the hotelier does not receive taxable consideration for the lodging service provided in this situation these items removed from an untaxed inventory become taxable to the establishment. The tax is only for such items which are placed in the room and for which tax has not previously been paid. If however the hotelier provides a room as part of a contract for services or a product, the product or service received is considered payment for the room. The hotelier would owe state sales tax as well as any local option taxes (including lodging tax) based on the normal charge for the room that is exchanged for the product or service. [*WY Dept of Rev Rules, Chap 2, Sec 7(g); WY Dept of Rev Rules, Chap 2, Sec 15(r)(iii); WY Dept of Rev Rules, Chap 2, Sec 15(bb)*]
- **Guarantee fees.** Many hoteliers are charging fees to guests associated with guaranteed room availability. These fees are typically classified as no-show fees, cancellation fees and attrition fees.
 - A **cancellation fee** is a charge for canceling a reservation prior to the scheduled reservation time. After the reservation is canceled, the lodging vendor is free to rent the room to another guest. It is our position that cancellation fees are not subject to Wyoming sales or lodging taxes. In this case the cancellation fee is better described as a penalty for lost rental opportunity while the quarters were reserved, and not as the sales price paid for living quarters.
 - A **guaranteed no-show fee** is a charge for reserving a room and the guest does not occupy the room. The charge is equivalent to the agreed upon charge for the room. In exchange for the fee, the lodging vendor will not rent the room to another guest. It is our position that guaranteed no-show fees are subject to Wyoming sales tax and applicable lodging taxes. [W.S. 39-15-103(a)(i)(G), W.S. 39-15-204(a)(ii)] Payment of money by a taxpayer to a lodging vendor for living quarters held by the vendor for

taxpayer's exclusive use is subject to sales tax. There is no requirement in our statute that the taxpayer must physically occupy the living quarters.

- **Attrition fees** typically arise in the context of a group contract with a lodging vendor for a block of sleeping rooms for a meeting. In our experience, some lodging vendors reserve the room for the exclusive use of a guest but others do not. In the latter case, those lodging vendors free up the room(s) to be rented to another guest(s). The taxability of the attrition fee depends on how the lodging vendor treats the issue. If the lodging vendor holds the room for exclusive use per the group contract the fee is subject to sales and applicable lodging taxes. If the group contract enables the lodging vendor to rent the room to another guest the fee is not subject to sales or lodging taxes.
- **Members Only.** "Members Only" lodging facilities are not subject to sales or lodging taxes since the consideration paid is for a membership. The right to use real property, including incidental lodging rights, stems from the membership.
 - An exception exists on charges subsequent to the payment of the membership fee. Charges added after the fact or use of a room for lodging service are subject to sales tax and lodging tax, if imposed in that locale.
- **Resort fees.** It has come to our attention that this fee is assessed by some, but not all, resorts in the area of Jackson Hole, Wyoming. The revenue from this fee has been used for a mutual marketing fund following the dissolution of the Jackson area Convention and Visitors Bureau. This "resort fee" lacks statutory directive as a tax. Thus, the fee does not fit the exclusion from the statutory definition of sales price. That exclusion is reserved for a separately stated **tax** that is legally imposed directly on the consumer. This resort fee, not being a tax, is subject to Wyoming sales tax and applicable lodging tax. [W.S. 39-15-101(a)(viii)(B)(III), W.S. 39-15-103(a)(i)(G)]. Please note that this resort fee is different from the tax imposed by resort districts as explained later in this document.
- **Ski packages, honeymoon packages, etc.** If the invoice shows a lump sum for all included items, including meals, drinks, tickets, rental of recreational gear, and spa services, then the entire package is subject to both sales and applicable lodging taxes. [*WY Dept of Rev Rules, Chap 2, Sec. 9(a)*]
 - 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 rooms.** In our experience, tour operators, travel agents, meeting planners, etc. often are not licensed vendors with our agency. As a result, they lack authority to purchase for resale as only licensed vendors are allowed to make tax exempt wholesale-for-resale purchases. Unless the purchaser is licensed lodging vendor and a properly completed exemption certificate is given to the lodging vendor/seller, the lodging vendor/seller must collect and remit the appropriate state sales and county option taxes (including lodging taxes). [W.S. 39-15-103(a)(i)(G), *WY Dept of Rev Rules, Chap 2, Sec. 9(b)*] If the purchaser is a licensed vendor but not a lodging vendor, the establishment must collect the county option lodging tax but would not collect the state or county

option sales tax as the purchaser can remit the sales tax portion but does not have the ability to collect and remit the lodging portion.

Guest Charges

- Computer. A fee for the use of a computer set up in a public area of the lodging facility is not subject to sales tax. A fee for the use of a laptop or other computer that guests can rent for individual use is subject to sales tax as a lease of tangible personal property. [W.S. 39-15-103(a)(i)(B)]
- Copies. Photocopy services are subject to sales tax. For example, ten (10) copies at twenty-five (25) cents each equals a sales price of \$2.50 plus applicable sales tax. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 15(z)*]
- Faxes. Facsimile service is not subject to sales tax.
- Laundry/dry cleaning services. Guest laundry or dry cleaning services are subject to sales tax. [W.S. 39-15-103(a)(i)(J) and *WY Dept of Rev Rules, Chap 2, Sec. 15(q)*] Typically, lodging vendors contract for these services with third parties. In this situation, the lodging vendor purchases for resale the guest laundry or dry cleaning services, and in turn, charges sales tax on its marked-up sales price to its guest. This is a separate taxable event from the taxable lodging service.
 - Revenue from a lodging vendor's coin-operated washing machine or dryer is not subject to sales tax, as the guest is providing the labor to alter/improve their own clothing.
- Pay-per-view. Until June 30, 2010, separately stated pay-per-view charges are subject to sales tax. This service is similar to a downloaded song or movie, and meets the statutory definition of tangible personal property. [W.S. 39-15-101(a)(ix), W.S. 39-15-103(a)(i)(A)] However, as of July 1, 2010, pay-per-view movies delivered electronically will be considered Specified Digital Products. As Digital Products, the tax imposed statute will not include these products.
- Pet charges. Pet fees are subject to sales and lodging taxes if the fees are part of the sales price of the room. [W.S. 39-15-103(a)(i)(G), *WY Dept of Rev Rules, Chap 2, Sec. 15(r)(i)*] 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. [W.S. 39-15-103(a)(i)(G), *WY Dept of Rev Rules, Chap 2, Sec. 15(r)(i)*]
- 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. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 15(hh)(i)*]
- Rollaway bed. Separately stated rollaway bed fees are subject to sales tax as a rental of tangible personal property. [W.S. 39-15-103(a)(i)(B)] Lump sum lodging fees that include the costs of a rollaway are subject to sales and any local option taxes as part of the total amount of lodging services charged transient guests. [W.S. 39-15-103(a)(i)(G), *WY Dept of Rev Rules, Chap 2, Sec. 15(r)(i)*]
- 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. [*WY Dept of Rev Rules, Chap 2, Sec. 15(r)(i)*]

- Telephone. Intrastate telephone services are taxable as part of the lodging service. [*W.S. 39-15-103(a)(i)(C), WY Dept of Rev Rules, Chap 2, Sec. 15(hh)*]
 - The lodging vendor is responsible for the sales tax on the difference between what the telecommunications provider charged and what the lodging vendor charged. Let's say that a telecommunications provider invoices the lodging vendor for telephone services. Included in the invoice is the sales tax for the lodging vendor's intrastate calls for all rooms within the lodging facility. For example, the telecommunication provider charges \$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. [*WY Dept of Rev Rules, Chap 2, Sec. 15(r)(iv)*]
- Vending machines. Retail vending machine sales of tangible personal property, except postage stamps, are subject to sales tax. [*WY Dept of Rev Rules, Chap 2, Sec. 15(jj)*]
- Wi-Fi. Charges for wireless internet access are exempt under federal law.
 - The previous version of the Internet Taxation Freedom Act prohibited states from taxing only dial-up internet access. The moratorium has been extended and expanded, and effective November 1, 2005 all forms of internet access are exempt from state taxation. 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.

Upkeep

- Below-ground pool or hot tub cleaning. A pool or hot tub set into the ground is considered real property under Wyoming law. In some instances, a third party is hired to perform the work, and in other instances, the hotelier cleans the pool itself.
 - Wyoming contractor law requires that the third party pay sales/use tax on necessary supplies to do the pool maintenance. In turn, the contractor is permitted to pass through to the hotelier the cost of supplies, including sales tax, as part of his/her charge. The other piece of the contractor's cost is labor, and that is not taxable. [*WY Dept of Rev Rules, Chap 2, Sec. 12(d)*]
 - If however, the pool maintenance is done by lodging personnel, the only sales/use tax event concerns the purchase by the hotelier of materials and supplies to maintain the pool, which are subject to sales tax. [*W.S. 39-15-103(a)(i)(A)*]
- 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. [*W.S. 39-15-103(a)(i)(G), W.S. 39-15-204(a)(ii)*]

- **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. [*WY Dept of Rev Rules, Chap 2, Sec. 15(cc)*]
- **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. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 15(bb)*]
- **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. [*WY Dept of Rev Rules, Chap 2, Sec. 15(bb)*]
- **Maintenance contracts.** The taxability of a warranty varies depending on whether the contract or warranty is standard or extended. The short answers are that for a standard manufacturer's warranty, the warranty is considered part of the sales price of the tangible personal property and taxable. Repairs or maintenance performed under a standard warranty are not subject to sales tax. For extended warranties or service contracts it is just the opposite. The extended warranty or service contract is not subject to sales tax but equipment repair or maintenance services to tangible personal property performed under the warranty or contract are subject to sales tax. [*WY Dept of Rev Rules, Chap 2, Sec. 15(mm)*]
- **New construction or repairs to real property.** For work to real property, it is important to remember that such work is done by contractors and is comprised of two elements, labor and materials. 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 end consumer. In a labor and materials contract, the end consumer is the contractor. In a labor only contract, the hotelier is the end consumer of the materials. Thus, while the labor is not subject to sales/use tax for new construction or repairs to real property, the materials are subject to sales/use tax. [*WY Dept of Rev Rules, Chap 2, Sec. 12(d)*]
- **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. [*WY Dept of Rev Rules, Chap 2, Sec. 15(cc)*]
- **Vending machines.** Tangible personal property, including candy, popcorn, soda pop, fruit juice and laundry soap, placed in a vending machine are exempt from sales tax as a wholesale-for-resale transaction by the vendor. Vending machine sales of tangible personal property, except postage stamps, shall be subject to the sales tax when purchased by the guest. [*WY Dept of Rev Rules, Chap 2, Sec. 15(jj)*]

Business Services

- **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. [*WY Dept of Rev Rules, Chap 2, Sec. 15(r)(ii)*]
- **Banquet/meeting room plus meals.** The charge for a banquet/meeting room is not subject to sales tax. [*WY Dept of Rev Rules, Chap 2, Sec. 15(r)(ii)*] Charges for prepared meals and beverages are subject to sales tax. [W.S. 39-15-103(a)(i)(F)] If this charge is bundled into a single charge, meaning that it is not separately stated, the entire charge is subject to

sales tax. Remember, taxable and nontaxable or exempt items must be separately stated on an invoice or else the entire invoice is subject to sales tax. [*WY Dept of Rev Rules, Chap 2, Sec. 9(a)*]

- Copies. Photocopy service is subject to sales tax. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 15(z)*]
- Equipment. Separately stated charges for rented equipment such as projectors, screens and microphones are subject to sales tax. [W.S. 39-15-103(a)(i)(B)] Free use of the same items is not subject to sales tax.
- Faxes. Facsimile service is not subject to sales tax.
- Floral arrangements. Additional charges for floral arrangements are subject to sales tax. [W.S. 39-15-103(a)(i)(A)] The charges must be separately stated from the banquet/meeting room fees, or else the entire invoice is subject to sales tax.
- Live entertainment. Charges for live bands or DJ's to provide entertainment are not subject to sales tax. A cover charge required for admission where some form of entertainment is subject to sales tax. [W.S. 39-15-103(a)(i)(H)]
- 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.

Recreational Fees

- 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.
- 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.
- Cover charge. The common scenario where such a charge would be taxable in the lodging context is when a cover charge is required for admission to a bar or restaurant where some form of entertainment is present. In those instances, the cover or minimum charge is subject to sales tax. [W.S. 39-15-103(a)(i)(F), W.S. 39-15-103(a)(i)(H)]
- 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)]
- 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.
- 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.
- Ski lift tickets. Ski lift tickets are not subject to tax, unless provided as part of a lump-sum package that contains taxable elements.

Beverage & Food Services

- Alcoholic beverages. Wyoming imposes sales tax on all retail sales of alcoholic beverages. [W.S. 39-15-103(a)(i)(N)]
- 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. [W.S. 39-15-105(a)(vi)(E), *WY Dept of Rev Rules, Chap 2, Sec. 3(v)*] Beverages purchased from a vending machine are considered to be intended for immediate consumption and are therefore subject to sales tax. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 3(v)*, *WY Dept of Rev Rules, Chap 2, Sec. 15(jj)*]

- 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. [W.S. 39-15-103(a)(i)(F), *WY Dept of Rev Rules, Chap 2, Sec. 15(r)(iii)*]
- 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. [W.S. 39-15-103(a)(i)(A), W.S. 39-15-103(a)(i)(F)]
 - 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. [W.S. 39-15-105(a)(iii)(J)]
- Food. Prepared food for immediate consumption is subject to sales tax. *WY Dept of Rev Rules, Chap 2, Sec. 3(v)(a)* 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.” 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. [W.S. 39-15-105(a)(vi)(E), *WY Dept of Rev Rules, Chap 2, Sec. 3(v)*]
 - Food items purchased from a vending machine are considered to be intended for immediate consumption and are therefore subject to sales tax. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 3(v)*, *WY Dept of Rev Rules, Chap 2, Sec. 15(jj)*]
 - 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.
- Gratuities. Mandatory gratuities are considered to be part of the sales price for the meal and/or service, and are subject to sales tax. [W.S. 39-15-101(a)(viii)(A)(III)]
 - Optional gratuities are not subject to sales tax.
- Meals. Wyoming imposes sales tax on all meals at any place where they are regularly sold to the public. [W.S. 39-15-103(a)(i)(F)] Furthermore, prepared meals are not included in the exemption for “food for domestic home consumption.” [*WY Dept of Rev Rules, Chap 2, Sec. 3(v)*]
- 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. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 3(v)*, *WY Dept of Rev Rules, Chap 2, Sec. 15(jj)*]

- Room service. A fee charged to provide room service is part of the sales price of the meal, and is subject to sales tax. [W.S. 39-15-101(a)(viii)(III), W.S. 39-15-103(a)(i)(F)]
- Vending machines. Wyoming imposes sales tax on all beverage and food items sold at retail via a vending machine. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 3(v), WY Dept of Rev Rules, Chap 2, Sec. 15(jj)*]

Parking & Transportation

- 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. [W.S. 39-15-105(a)(viii)(A)(I)]
- 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. [W.S. 39-15-103(a)(i)(D)] This creates parity for those providing similar services who are not lodging vendors. 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.

Gift Shop

- Items. Unless an exemption exists, all retail sales of tangible personal property in Wyoming are subject to sales tax. [W.S. 39-15-103(a)(i)(A)]
 - As discussed above, 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. [W.S. 39-15-103(a)(i)(A), *WY Dept of Rev Rules, Chap 2, Sec. 15(t)*]
- Medications. All retail sales of over-the-counter medications such as aspirin, acetaminophen and cold remedies are subject to sales tax. [W.S. 39-15-103(a)(i)(A)]
- 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. [W.S. 39-15-105(a)(viii)(D), *WY Dept of Rev Rules, Chap 2, Sec. 3(dd)*]
- 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. [W.S. 39-15-103(a)(i)(A) and *WY Dept of Rev Rules, Chap 2, Sec. 15(hh)(i)*]
- 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. [W.S. 39-15-103(a)(i)(A)]

Guides & Outfitters

- Apparel. Hats, shirts, equipment or other tangible personal property purchased from guides/outfitter are subject to Wyoming sales tax. [W.S. 39-15-103(a)(i)(A)]

- Deposits. Deposits received for guides/outfitter services are not taxable. At such point, no sale has occurred. When the final invoice is submitted, the deposit is part of the total bill or forfeited.
- Fees. Fees paid for the skill and direction of guiding services for float trips, fishing trips, hunting trips, pack trips, horseback trips, mountain biking, and other guided tours are not taxable.
- Food. Food purchased by licensed guides/outfitters is for resale (tax free), and the appropriate sales tax is in turn collected by them from their customer(s) based on the sales price paid by their customer(s). [W.S. 39-15-103(a)(i)(A), W.S. 39-15-103(a)(i)(F)]
- Invoicing. The value of non-taxable guide services must be separately stated on the billing invoice from taxable charges or else the entire invoice amount is subject to sales tax. [*WY Dept of Rev Rules, Chap 2, Sec. 9(a)*]
- Lodging by a guide. W.S. 39-15-105(a)(viii)(G) exempts from lodging tax, “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...”
 - Lodging services provided by a guide are still subject to sales tax. [W.S. 39-15-103(a)(i)(G)]
- Lodging without a guide. A purchase of lodging services without guide services is subject to both sales and lodging taxes. The exemption at W.S. 39-15-105(a)(viii)(G) does not apply in this instance.
- Wholesale lodging. Lodging purchased by a licensed guide/outfitter may be purchased exempt from sales tax as a purchase for resale. The appropriate sales tax is in turn collected by the guide/outfitter from their customers. Any applicable lodging tax pertaining to lodging other than temporary shelters mentioned in W.S. 39-15-105(a)(viii)(G) must be paid to the lodging vendor by the guide/outfitter.

Campgrounds & RV Parks

- Overnight camping. Fees charged for the provision of overnight lodging service for transient guests are subject to both sales tax and applicable lodging tax. [W.S. 39-15-101(a)(i), W.S. 39-15-101(a)(xiv), W.S. 39-15-103(a)(i)(G) and W.S. 39-15-204(a)(ii)]
 - Lodging service includes provision of sites for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations. [W.S. 39-15-101(a)(i)]
- Sewage fee. Fees for sewage dumping by a recreational vehicle at an authorized receptacle are not subject to sales tax. [*WY Dept of Rev Rules, Chap 2, Sec. 15(n)*]

Exempt Entities

Wyoming law recognizes several entities that may make purchases exempt from sales and applicable lodging taxes. [W.S. 39-15-105(a)(iv)(A-B)] Please note that all exempt purchases must be properly documented using a properly completed Streamlined Sales and Use Tax Agreement Certificate of Exemption or a differing exemption certificate with the same data elements (for non-Wyoming entities). Blank copies of the Streamlined Certificate are available on our website, <http://revenue.state.wy.us>. Click on “Forms” in the red banner. Scroll to the

heading “Excise” and click on “Exemption/Power of Attorney Forms.” Choose the Streamlined Exemption Certificate with Instructions. Please note that vendors must retain such documentation for a minimum of three years for audit purposes. [W.S. 39-15-107(a)(ii)]

U.S. Government

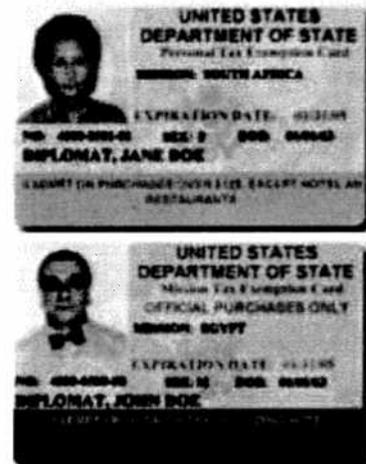


- The United States government issues four different cards for employee use. Federal credit cards are commonly referred to as SmartPay cards, and fall into four categories: Fleet, Purchase, Travel and Combined. Centrally billed cards are billed directly to the federal government and are paid directly by the federal government. Individually billed cards are billed to and paid by the federal employee, who is later reimbursed by the federal government.
- Provided the purchase is billed to the agency and all payments are received from the agency **and** the purchase is supported by a properly completed Streamlined Sales Tax Agreement Certificate of Exemption, the vendor is alleviated of the burden of collecting sales tax on the transaction.



Foreign Diplomats

- Tax exemption cards. The U.S. Department of State issues Tax Exemption Cards to certain official personnel from foreign countries who are stationed in the United States. The card contains the individual’s name, photograph, mission employed by, expiration date, and protocol identification number.
- The Office of Foreign Missions has an online database of over 13,000 active tax exemption cards available. This database includes the protocol identification number (PID), a description of the allowed exemptions, and an expiration date. This database may be accessed by going to <http://www.state.gov/ofm/tax>. In the left-hand menu, click on “Tax Card Verification.” The center of the screen will change, giving instructions on how to use the database. A link to the five megabyte database file is at the very bottom of the page.
- Tax exemption cards are not valid for exemption from taxes on telephones, other utilities, gasoline purchases or automobile purchases.



- Not all foreign missions and their personnel are entitled to the same level of tax exemption. Each card will have one of two different levels of sales and use tax exemption indicated on the face/reverse of the card, and each card will be authorized for personal purchases or for official mission purposes.
 - Personal. The Personal Tax Exemption Card is used at the point of sale for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to a customer. The Personal Card bears the photograph and identification of a duly accredited consulate, embassy, or eligible international organization employee who is entitled to the tax exemption privileges as stated on the card. This card is only for the personal use of the bearer whose picture appears on the front of 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 by mission check or credit card (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 is in the name of the Mission and the bill is paid for by a mission check or credit card. The Mission Tax Exemption Card is not transferable, and is not to be used for personal purchases.
 - Provided the purchase is billed to the exempt diplomat or mission as the card bears and all payments are received from the same **and** the purchase is supported by a properly completed Streamlined Sales Tax Agreement Certificate of Exemption, the vendor is alleviated of the burden of collecting sales tax on the transaction.

The State of Wyoming or Its Political Subdivisions

- Direct billing. Sales and lodging tax exemptions apply to purchases made by the State of Wyoming or its political subdivisions. [W.S. 39-15-105(a)(iv)(A) and W.S. 39-15-205] To qualify for these exemptions, the governmental entity must pay the bill directly. Any state or local 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. Hoteliers must document all exempt purchases by retaining an exemption certificate completed by the entity claiming the exemption.
- Political subdivisions. Many Wyoming towns, cities, counties, school districts and community colleges issue credit cards to their employees to simplify billing procedures. Some of these cards are billed to the political subdivision, and some are billed to the employee. When faced with this scenario, ask the cardholder where the bill is sent. If the bill is sent to the cardholder who is then reimbursed for his/her travel expenses, all sales and applicable lodging taxes apply. If the cardholder states that the bill is sent to the political subdivision, have the cardholder complete an exemption certificate, then



exempt the bill from sales and applicable lodging taxes. The form should be completed in the name of the political subdivision, not the employee making the purchase – the employee is not exempt, only the subdivision is exempt.

- Other states. Only the State of Wyoming or its political subdivisions such as counties, cities, towns, or municipalities may make tax-exempt purchases within Wyoming. We do not exempt other states' governments (state or local) from Wyoming sales and lodging taxes. They are not considered subdivisions of Wyoming.

Schools

- Dorms. Educational institutes that provide dormitory space to students do not charge sales or lodging taxes if the rooms are rented for continuous periods longer than 29 days.
 - Provision of lodging accommodations to transient guests and members of the general public are subject to sales tax and applicable lodging tax.
- Out-of-state schools. The sales and lodging tax exemptions that exempt sales to the State of Wyoming or its political subdivisions does not extend to out-of-state schools or school districts. [W.S. 39-15-105(a)(iv)(A) and W.S. 39-15-205] Some out-of-state schools may alternatively qualify as exempt religious or charitable organizations. See discussion that follows.
- Private schools. We do not exempt private schools from sales or lodging tax, unless the private school qualifies as a religious or charitable organization. Please see the “Religious & Charitable Organizations” further in this document.
- Wyoming public schools. Purchases made directly by a Wyoming school district qualify as a sales and lodging tax exempt purchase made by a political subdivision of the State of Wyoming. [W.S. 39-15-105(a)(iii)] See earlier discussion on the exemption availed the State of Wyoming's political subdivisions.

Religious & Charitable Organizations

- Employee purchases. 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. 9(d)*]
- Exempt status. We grant sales tax exemption to religious and charitable organizations that qualify under our rules. Although not statutorily required to do so, organizations may present to our department evidence of federal 501(c)(3) exempt status or additional documentation to support their status claim. Such entities will be issued a Letter of Authority that contains their Wyoming Revenue Identification Number (RID). This RID Number, if obtained, will be stated on the exemption certificate provided to vendors in order to document exempt sales. [*WY Dept of Rev Rules, Chap 2, Sec. 9(c)*]
- Purchases. 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. 9(c)(v)*]
- Schools. A school that is not considered a political subdivision of the State of Wyoming may be able to qualify for tax-exempt status as a religious or charitable organization. The

school, located in-state or out-of-state, may pre-submit its evidence of religious or charitable status and the Department would confirm or deny its assertion.

- Wyoming Letter of Authority. While it was once mandatory for exempt religious and charitable organizations to provide vendors with the Letter of Authority as well as an exemption certificate, this is no longer required. A properly completed Streamlined Sales and Use Tax Agreement Certificate of Exemption indicating the organization is claiming exemption is the only document required and alone will remove the responsibility from the vendor to collect the tax on a taxable sale or service and places the responsibility on the purchaser.

Resort Districts

During the 2003 Legislative session, House Bill 211 was passed. This law, effective July 1, 2003, allowed for the creation of a new special district known as a “resort district.” As of July 1, 2005, only one resort district exists, the Teton Village Resort District.

Where a resort district excise tax is authorized, it is collected only by vendors within the district and only for sales made within the district. Vendors within the district must also remit the resort district tax on their purchases that are subject to use tax. In the lodging context, any applicable lodging tax is added to the applicable sales tax and resort district excise tax. The tax dollars generated by this tax are earmarked for infrastructure development within the resort district.

Once the area has gone through the districting process, including the election of a board of directors, the resort district may impose the resort district excise tax only on transactions conducted within a particular area. Per W.S. 39-15-204:

- (a) 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 (iv) of this subsection:
 - (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;

Additional Information

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.state.wy.us>. In the red banner at the top of the screen, click on “Publications.” Go to the section titled, “Newsletters.” From there, click on the red text, “Excise (Sales, Use & Cigarette Taxes).” The menu will expand, showing past issues of “Taxing Issues” in chronological order.

To the extent your specific facts are covered by a taxability determination set forth above, please see the following notice:

The Wyoming Taxpayers Bill of Rights provides that taxpayers may rely upon written determination statements of the Department of Revenue to avoid penalties and interest consequences if the determination is later found to be in error. This letter will serve as your notification of that right regarding the subject matter of your request.

To the extent that your specific facts are not covered by a taxability determination set forth above, please understand that this publication provides determinations to specific applications of Wyoming Statutes and Department of Revenue Rules. All situations are fluid and require careful analysis of the facts. If there is any uncertainty or question, please do not hesitate to contact the Education & Taxability Section at 307-777-2459 or DOR_Taxability@state.wy.us.

Subject Matter by Statutes and Rules

Statutes

- W.S. 39-15-101(a)(i) defines lodging service as, “...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) defines lodging tax as, “...the excise tax imposed on lodging services.”
- W.S. 39-15-101(a)(xiv) defines a transient guest as, “...a guest who remains for less than thirty (30) continuous days.”
- 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) defines tangible personal property as "...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)(xl) defines "Specified digital products" as "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. 39-15-101(a)(i)(A) imposes sales tax on, "The sales price of every retail sale of tangible personal property within the state."

- W.S. 39-15-103(a)(i)(B) imposes sales tax on, “The gross rental paid for the lease or contract transferring possession of tangible personal property if the transfer of possession would be taxable if a sale occurred.”
- W.S. 39-15-103(a)(i)(C) imposes sales tax on, “The sales price paid for intrastate telephone and telegraph services including the consideration paid for the rental or leasing of any equipment or 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) imposes sales tax on, “The sales price paid to carriers for intrastate transportation of passengers.”
- W.S. 39-15-103(a)(i)(F) imposes sales tax on, “The sales price paid for meals and cover charges at any place where meals are regularly served to the public.”
- W.S. 39-15-103(a)(i)(G) imposes sales tax on, “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) imposes sales tax on, “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)(N) imposes sales tax on, “The sales price paid for alcoholic beverages.”
- W.S. 39-15-103(a)(i)(P), effective July 1, 2010, imposes sales tax on, “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)(iii)(F) exempts from sales tax, “Wholesale sales excluding sales of 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. 39-15-105(a)(iii)(J) exempts from sales tax, “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) exempts from sales tax, “Sales to the state of Wyoming or its political subdivisions.”

- W.S. 39-15-105(a)(iv)(B) exempts from sales tax, “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.”
- W.S. 39-15-105(a)(vi)(E) exempts from sales tax, “Sales of food for domestic home consumption.”
- W.S. 39-15-105(a)(viii)(A)(I) exempts from sales tax, “Intrastate transportation of... Employees to or from work when paid or contracted for by the employee or employer.”
- W.S. 39-15-105(a)(viii)(D) exempts from sales tax, “Sales of newspapers.”
- W.S. 39-15-105(a)(viii)(G) exempts from sales tax, “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. 39-15-107(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:

(a) 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 one percent (1%) 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 two percent (2%);

(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. 39-15-205 states, “There are no specific applicable provisions for exemptions for this article. The provisions of W.S. 39-15-105 shall apply to the taxes imposed by this article.”

Rules

- *WY Dept of Rev. Rules, Chap 2, Sec. 3(v)* states: “‘Food for domestic home consumption’ means substances, whether liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food for domestic home consumption includes dietary supplements and does not include alcoholic beverages, tobacco, prepared foods or food sold through vending machines.
 - (i.) ‘Prepared foods’ are foods generally intended for, and which are ready for immediate consumption.
 - (A.) ‘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.
 - (B.) ‘Prepared food’ does not include:
 - (1.) 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.
 - (2.) Food sold in an unheated state by weight or volume as a single item;
 - (3.) Food sold by a seller whose proper primary NAICS classification is food manufacturing; or
 - (4.) 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.
 - (5.) “Dietary Supplements” including vitamins, minerals, botanicals, amino acids and other substances used to enhance dietary health.”
- *WY Dept of Rev Rules, Chap 2, Sec. 3(dd)* 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 within the newspaper.”
- *WY Dept of Rev Rules, Chap 2, Sec. 7(g)* 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.”

- *Dept of Rev Rules, Chap 2, Sec. 9(a)* states, “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 exempt charges are not separately shown and distinguishable from taxable charges.”
- *WY Dept of Rev Rules, Chap 2, Sec. 9(b)* states, “Certificates of Exemption. Vendors shall obtain completed exemption certificates for all sales transactions, other than those qualifying under Section 8 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. Such certificates shall be in a format as prescribed by the Streamlined Sales and Use Tax Agreement of November 12, 2002, as adopted by the department 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 a 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. Sellers are relieved of liability from the tax owed upon obtaining a properly completed exemption certificate from the purchaser.”
- *WY Dept of Rev Rules, Chap 2, Sec. 9(c)* 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 federal 501(c)(3) status with our agency will be issued an exemption approval letter on this documentation alone. All other organizations must furnish the documents set forth in the following subsection. Such organizations shall apply to the Department in writing for exemption approval and registration.
 - (i.) The Department shall consider the following documentation to determine whether the organization is primarily engaged in charitable or religious activities:
 - (A.) Articles of Incorporation
 - (B.) Organizational Charter or Constitution
 - (C.) Mission Statement
 - (D.) Budget
 - (E.) Income and Expense Statements
 - (F.) Evidence of federal tax exempt status
 - (ii.) To be considered primarily organized and operated for charitable or religious activities, an organization shall establish that:
 - (A.) The organization is organized and operated for a purpose designed to benefit an indefinite number of persons in an educational, moral, physical, or social manner; and
 - (B.) The organization’s assets are completely and permanently pledged to that same charitable or religious purpose; and
 - (C.) No part of the net earnings of the organization will be distributed to the organization’s members, trustees, officers, or other similarly situated persons as salary or profit earned from organizational activities; and

(D.) The organization is a non-profit organization, and has expended at least sixty five percent (65%) of its annual income for the prior three (3) years on programs, other organizations, foundations, or similar groups and/or activities directly related to its charitable purposes.

(iii.) Organizations shall notify the Department if the conditions allowing exempt status change.

(A.) Organizations which have existed for less than three (3) years and which have insufficient history to comply with Section 9(c)(ii)(D), as determined by the Department, may be issued exemption approval for one (1) year.”

- *WY Dept of Rev Rules, Chap 2, Sec. 12(d)* 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). Charges for labor to alter, improve, repair or construct tangible personal property are subject to the sales/use tax.”
- *WY Dept of Rev Rules, Chap 2, Sec. 15(m)* 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. 15(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 as defined by W.S. 39-15-101(a)(xvi). The service of linen and towel supply shall be considered to be a laundry service.”
- *WY Dept of Rev Rules, Chap 2, Sec. 15(r)(i)* states, “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 in-room video viewing and room service meals.”
- *WY Dept of Rev Rules, Chap 2, Sec. (r)(ii)* states, “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.”
- *WY Dept of Rev Rules, Chap 2, Sec. (r)(iii)* states, “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 such 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 such items is part of the overall charge for lodging services.”
- *WY Dept of Rev Rules, Chap 2, Sec. 15(r)(iv)* states, “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.”

- *WY Dept of Rev Rules, Chap 2, Sec. 15(r)(v)* states, “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. 15(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. 15(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. 15(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. 15(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 as defined by W.S. 39-15-101(a)(xvi). Labor or service charges for repairs, alterations or improvements of real property are not subject to the sales tax.
 - (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.15(hh)* 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. 15(jj)* states, “Vending Machines. Vending machine sales of tangible personal property, except postage stamps, shall be subject to the sales tax.”
- *WY Dept of Rev Rules, Chap 2, Sec. 15(mm)* states, “Warranties.

(i) Standard warranties: those warranties which are provided with the purchase of tangible personal property, are provided by the manufacturer or vendor and are included in the sales price of the tangible personal property.

(A) The cost of a manufacturer's standard warranty shall be subject to the sales tax.

(B) 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 contracts or similar agreements: those agreements which are sold for an additional and separate cost and provide additional services or extend the timeframe of service coverage.

(A) The cost of an extended warranty, service contract or similar agreement shall not be subject to the sales tax.

(B) 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.

(II) The issuer of the agreement shall be liable for the sales tax on the repair charges covered by the extended warranty.

(C) The taxable basis is the sales price of the service performed, consistent with rule 15(ee) of this chapter.