

HOUSE BILL NO. HB0014

Streamlined sales tax.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing  
 2 amendments to the sales and use tax laws as specified;  
 3 providing for voluntary licensing; providing definitions;  
 4 providing for enforcement procedures; providing for bad  
 5 debt procedures; providing timeline procedures for local  
 6 optional taxes; providing conforming amendments; and  
 7 providing for an effective date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 39-15-107.3 is created to read:

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13 **39-15-107.3. Voluntary licensing and monetary**  
 14 **allowances offered under the streamlined sales tax**  
 15 **agreement.**

16

1           (a) Any vendor who licenses to collect and remit  
2 applicable sales or use tax on sales made to purchasers in  
3 this state in accordance with terms of the streamlined  
4 sales and use tax agreement shall not be subject to audit  
5 prior to the date of licensure provided the vendor was not  
6 licensed in this state and licensing occurs within twelve  
7 (12) months of the effective date of the streamlined sales  
8 and use tax agreement. The vendor shall not be assessed  
9 for uncollected sales or use tax together with penalty or  
10 interest for sales made during the period the vendor was  
11 not licensed in this state, provided licensing occurs  
12 within twelve (12) months of the effective date of this  
13 provision. This provision shall not apply to any vendor  
14 who has received notice of the commencement of an audit and  
15 the audit is not finally resolved including any  
16 administrative and judicial processes. The voluntary  
17 licensure provision shall not be available for sales or use  
18 taxes already paid or remitted to the state or for taxes  
19 collected by the vendor. The provisions of this section  
20 shall be fully effective absent fraud or intentional  
21 misrepresentation of a material fact so long as the vendor  
22 continues to license and continues collection and  
23 remittance of applicable sales or use taxes for a period of  
24 not less than thirty-six (36) months following his initial

1 licensure as a vendor. The voluntary licensure provision  
2 shall only apply to sales or use taxes due from a vendor  
3 acting as a seller and not as a purchaser.

4

5 (b) A certified service provider and user of any  
6 technology model approved by the department who collects  
7 the Wyoming sales and use taxes shall be granted a monetary  
8 allowance for collecting the taxes as provided in the  
9 streamlined sales and use tax agreement. Any allowance  
10 shall be funded entirely from taxes collected under the  
11 technology models and shall be based on the contracted  
12 amount between the governing board and the service  
13 providers.

14

15 **Section 2.** W.S. 39-15-101(a)(ix) and by creating new  
16 paragraphs (xxiii) through (xxxviii), 39-15-104 by creating  
17 a new subsection (g), 39-15-105(a)(vi)(B), 39-15-107(a)(x),  
18 39-15-109(c), 39-15-203(a)(i)(A), (ii)(B) and (iii)(C),  
19 39-16-101(a)(vi), 39-16-104 by creating a new subsection  
20 (f), 39-16-105(a)(vi)(A) and 39-16-203(a)(i)(A) and (ii)(C)  
21 are amended to read:

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23 **39-15-101. Definitions.**

24

1 (a) As used in this article:

2

3 (ix) "Tangible personal property" means ~~any~~all  
4 personal property ~~not real or intangible~~ that can be seen,  
5 weighed, measured, felt or touched, or that is in any other  
6 manner perceptible to the senses. "Tangible personal  
7 property" includes electricity, water, gas, steam and  
8 prewritten computer software; and includes any controlled  
9 substances as defined by W.S. 35-7-1002(a)(iv) which are  
10 not sold pursuant to a written prescription of or through a  
11 licensed practitioner as defined by W.S. 35-7-1002(a)(xx);

12

13 (xxiii) "Certified automated system" means  
14 software certified under the streamlined sales and use tax  
15 agreement to calculate the tax imposed by each jurisdiction  
16 on a transaction, determine the amount of tax to remit to  
17 the appropriate state and maintain a record of the  
18 transaction;

19

20 (xxiv) "Certified service provider" means an  
21 agent certified under the streamlined sales and use tax  
22 agreement to perform all the seller's sales and use tax  
23 functions, other than the seller's obligation to remit tax  
24 on its own purchases;

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(xxv) "Computer" means an electronic device that accepts information in a digital or similar form and manipulates it for a result based on a sequence of instructions;

(xxvi) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task;

(xxvii) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media;

(xxviii) "Drug" means a compound, substance or preparation, and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages:

(A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them;

1                   (B) Intended for use in the diagnosis,  
2 cure, mitigation, treatment or prevention of disease; or

3  
4                   (C) Intended to affect the structure or any  
5 function of the body.

6  
7                   (xxix) "Durable medical equipment" means  
8 equipment including its repair and replacement parts which:

9  
10                   (A) Can withstand repeated use;

11  
12                   (B) Is primarily and customarily used to  
13 serve a medical purpose;

14  
15                   (C) Generally is not useful to a person in  
16 the absence of illness or injury;

17  
18                   (D) Is not worn in or on the body;

19  
20                   (E) Does not include "mobility enhancing  
21 equipment".

22

1           (xxx) "Electronic" means relating to technology  
2 having electrical, digital, magnetic, wireless, optical,  
3 electromagnetic or similar capabilities;

4  
5           (xxxi) "Intangible personal property" includes:

6  
7           (A) Money and cash on hand including  
8 currency, gold, silver and other coin, bank drafts,  
9 certified checks and cashier's checks;

10

11           (B) Money on deposit;

12

13           (C) Accounts receivable and other credits;

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15           (D) Bonds, promissory notes, debentures and  
16 other evidences of debt;

17

18           (E) Shares of stock or other written  
19 evidence of ownership;

20

21           (F) Judgments for the payment of money;

22

23           (G) Annuities and annuity contracts.

24

1           (xxxii) "Lease" or "rental" means any transfer  
2 of possession or control of tangible personal property for  
3 consideration for a fixed or indeterminate period of time.  
4 A lease or rental may include future options to purchase or  
5 extend the lease or rental. "Lease" or "rental" shall  
6 include any agreement covering a motor vehicle or trailer  
7 where the amount of consideration may be increased or  
8 decreased by reference to the amount realized upon sale or  
9 disposition of the property as defined in 26 U.S.C. §  
10 7701(h)(1). The definitions in this paragraph shall be  
11 used for sales and use tax purposes regardless of whether a  
12 transaction is characterized as a lease or rental under  
13 generally accepted accounting principles, the Internal  
14 Revenue Code, the Uniform Commercial Code, or other  
15 applicable provisions of federal, state or local law.  
16 "Lease" or "rental" shall not include:

17

18           (A) A transfer of possession or control of  
19 property under a security agreement or deferred payment  
20 plan that requires the transfer of title upon completion of  
21 the required payments;

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23           (B) A transfer of possession or control of  
24 property under an agreement that requires the transfer of



1 title upon completion of required payments and payment of  
2 an option price which does not exceed the greater of one  
3 hundred dollars (\$100.00) or one percent (1%) of the total  
4 required payments; or

5  
6 (C) Providing tangible personal property  
7 along with an operator for a fixed or indeterminate period  
8 of time, with the condition that the operator is necessary  
9 for the equipment to perform as designed. For purposes of  
10 this subparagraph, an operator shall do more than maintain,  
11 inspect or set up the tangible personal property.

12  
13 (xxxiii) "Load and leave" means delivery to the  
14 purchaser by use of a tangible storage media where the  
15 tangible storage media is not physically transferred to the  
16 purchaser;

17  
18 (xxxiv) "Mobility enhancing equipment" means  
19 equipment including its repair and replacement parts which:

20  
21 (A) Is primarily and customarily used to  
22 provide or increase the ability to move from one (1) place  
23 to another and which is appropriate for use either in a  
24 home or a motor vehicle;

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2

(B) Is not generally used by persons with normal mobility;

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(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

8

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(D) Does not include "durable medical equipment".

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(xxxv) "Over-the-counter-drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

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(A) A drug facts panel; or

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(B) A statement of any active ingredient with a list of the ingredient contained in the compound, substance or preparation.

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(xxxvi) "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic

24

1 or other means of transmission by a duly licensed  
2 practitioner as defined by W.S. 35-7-1002(a) (xx);

3  
4 (xxxvii) "Prewritten computer software" means  
5 computer software including any prewritten upgrade, which  
6 is not designed and developed by the author or other  
7 creator to the specifications of a specific purchaser. The  
8 combining of two (2) or more prewritten computer software  
9 programs or prewritten portions thereof does not cause the  
10 combination to be other than prewritten computer software.  
11 Prewritten computer software includes software designed and  
12 developed by the author or other creator to the  
13 specifications of a specific purchaser when it is sold to a  
14 person other than the specific purchaser. Where a person  
15 modifies or enhances computer software of which the person  
16 is not the author or creator, the person shall be deemed to  
17 be the author or creator only of the person's modifications  
18 or enhancements. Prewritten computer software or a  
19 prewritten portion thereof that is modified or enhanced to  
20 any degree, where the modification or enhancement is  
21 designed and developed to the specifications of a specific  
22 purchaser remains prewritten computer software. However,  
23 where there is a reasonable, separately stated charge or an  
24 invoice or other statement of the price given to the

1 purchaser for the modification or enhancement, the  
2 modification or enhancement shall not constitute prewritten  
3 computer software;

4  
5 (xxxviii) "Prosthetic device" means a  
6 replacement, corrective or supportive device including  
7 repair and replacement parts for the device, worn on or in  
8 the body to:

9  
10 (A) Artificially replace a missing portion  
11 of the body;

12  
13 (B) Prevent or correct physical deformity  
14 or malfunction; or

15  
16 (C) Support a weak or deformed portion of  
17 the body.

18  
19 **39-15-104. Taxation rate.**

20  
21 (g) Any vendor or certified service provider relying  
22 on an incorrect rate, boundary or jurisdictional  
23 information provided by the department in its tax rate  
24 database required under the streamlined sales and use tax

1 agreement shall not be held liable for any under collection  
2 of tax caused by the department's error.

3  
4 **39-15-105. Exemptions.**

5  
6 (a) The following sales or leases are exempt from the  
7 excise tax imposed by this article:

8  
9 (vi) For the purpose of exempting sales of  
10 services and tangible personal property which are essential  
11 human goods and services, the following are exempt:

12  
13 (B) Sales of the following tangible  
14 personal property sold under a prescription: drugs for  
15 human relief excluding over-the-counter-drugs, insulin for  
16 human relief and any syringe, needle or other device  
17 necessary for the administration thereof, oxygen ~~and oxygen~~  
18 ~~concentrators~~ for medical use, blood plasma, prosthetic  
19 devices, hearing aids, ~~crutches, wheelchairs,~~ eyeglasses,  
20 contact lenses, mobility enhancing equipment, durable  
21 medical equipment and any assistive device. As used in  
22 this subparagraph, "assistive device" means any item, piece  
23 of equipment or product system, as defined by department  
24 rule, which is used to increase, maintain or improve the

1 functional capabilities of an individual with a permanent  
2 disability, excluding any medical device, surgical device  
3 or organ implanted or transplanted into or attached  
4 directly to an individual.

5

6 **39-15-107. Compliance; collection procedures.**

7

8 (a) Returns, reports and preservation of records.  
9 The following shall apply:

10

11 (x) Taxes paid on gross receipts represented by  
12 accounts found to be worthless may be credited against  
13 subsequent liability of the vendor. The vendor shall not  
14 take the credit for any bad debt until he has used the  
15 customary debt collection procedures as documented in  
16 writing by the vendor and has written off the debt; or  
17 until the debt qualifies as a bad debt under 26 U.S.C.  
18 section 166 excluding financing charges or interest, sales  
19 or use taxes charged on the purchase price, uncollectible  
20 amounts on property that remain in the possession of the  
21 seller until the full purchase price is paid, any expenses  
22 incurred in attempting to collect any debt, and repossessed  
23 property. If any ~~such~~ account is thereafter collected by  
24 the vendor, a tax shall be paid upon the amount collected.

1 The amount collected shall be applied proportionally first  
2 to the taxable price of the property or service and the  
3 sales tax thereon, and then to interest, service charges  
4 and any other charges. Should the bad debt exceed the  
5 taxable sales for a subsequent period the vendor may  
6 request a refund of the tax on the bad debt from the  
7 department so long as the claim is made within three (3)  
8 years of the date of sale. A certified service provider  
9 under W.S. 39-15-401 through 39-15-408 acting on behalf of  
10 a vendor may claim the bad debt allowance for the vendor  
11 and shall remit the credit or refund received to the  
12 vendor. Should the bad debt apply to more than one (1)  
13 state, the debt may be allocated between the affected  
14 states.

15

16 **39-15-109. Taxpayer remedies.**

17

18 (c) Refunds. The following shall apply:

19

20 (i) Any tax, penalty or interest which has been  
21 erroneously paid, collected or computed shall either be  
22 credited against any subsequent tax liability of the vendor  
23 or refunded. No credit or refund shall be allowed after  
24 three (3) years from the date of overpayment. The receipt

1 of a claim for a refund by the department shall toll the  
2 statute of limitations. All refund requests received by the  
3 department shall be approved or denied within ninety (90)  
4 days of receipt. Any refund or credit erroneously made or  
5 allowed may be recovered in an action brought by the  
6 attorney general in any court of competent jurisdiction;

7

8 (ii) Any tax erroneously paid by a taxpayer  
9 shall be refunded by the vendor who originally collected  
10 the tax. No cause of action shall lie against the vendor  
11 by the taxpayer until not less than sixty (60) days elapse  
12 following a request by the taxpayer for a refund from the  
13 vendor.

14

15 **39-15-203. Imposition.**

16

17 (a) Taxable event. The following shall apply:

18

19 (i) The following provisions apply to imposition  
20 of the general purpose excise tax under W.S.  
21 39-15-204(a)(i):

22

23 (A) Except as provided by subparagraph (F)  
24 of this paragraph, no tax shall be imposed under W.S.



1 39-15-204(a)(i) until the proposition to impose the taxes  
2 is submitted to the vote of the qualified electors of the  
3 county, and a majority of those casting their ballots vote  
4 in favor of imposing the taxes. A county may impose both  
5 taxes authorized in W.S. 39-15-204(a)(i) and (ii), but the  
6 proposition to impose each tax shall be individually stated  
7 and voted upon. Except as otherwise provided, excise taxes  
8 imposed under this paragraph shall commence ~~on the first~~  
9 ~~day of the second month~~ as provided by W.S. 39-15-207(c)  
10 following the election approving the imposition of the tax;

11

12 (ii) The following provisions apply to  
13 imposition of the lodging excise tax under W.S.  
14 39-15-204(a)(ii):

15

16 (B) No tax shall be imposed under W.S.  
17 39-15-204(a)(ii) until the proposition to impose the taxes  
18 is submitted to the vote of the qualified electors of the  
19 county or of a city or town if the proposition is to impose  
20 the tax only city wide or town wide, and a majority of  
21 those casting their ballots vote in favor of imposing the  
22 taxes. A county may impose both taxes authorized in W.S.  
23 39-15-204(a)(i) and (ii), but the proposition to impose  
24 each tax shall be individually stated and voted upon.

1 Except as otherwise provided, excise taxes imposed under  
2 this paragraph shall commence ~~on the first day of the~~  
3 ~~second month~~ as provided by W.S. 39-15-207(c) following the  
4 election approving the imposition of the tax;

5  
6 (iii) The following provisions apply to  
7 imposition of the specific purpose excise tax under W.S.  
8 39-15-204(a)(iii):

9  
10 (C) No tax shall be imposed under this  
11 paragraph until the proposition to impose the tax for  
12 specific purposes in specific amounts is approved by the  
13 vote of the majority of the qualified electors voting on  
14 the proposition. The amount of revenue to be collected and  
15 the purpose or purposes for which it is proposed to be used  
16 shall be specified in the proposition. The election shall  
17 be held in accordance with W.S. 22-21-101 through  
18 22-21-112. Any debt created may also be repaid, in whole or  
19 in part, by a property tax levy if general obligation bonds  
20 are authorized by the electors. Any excise tax imposed  
21 under this subsection shall commence ~~on the first day of~~  
22 ~~the second month~~ as provided by W.S. 39-15-207(c) following  
23 the election approving the imposition of the tax, except  
24 that it shall commence on the first day of any subsequent

1 month following the receipt of tax funds in the approved  
2 amount by any tax previously imposed under this subsection  
3 as provided by subparagraph (E) of this paragraph. Unless  
4 terminated earlier by the sponsoring entities pursuant to  
5 subparagraph (G) of this paragraph, the tax shall terminate  
6 ~~on the last day of the month following the month in which~~  
7 as provided by W.S. 39-15-207(c) when the amount approved  
8 by the electors is collected;

9

10 **39-16-101. Definitions.**

11

12 (a) As used in this article:

13

14 (vi) "Tangible personal property" means all  
15 personal property ~~not real or intangible that can be seen,~~  
16 weighed, measured, felt or touched, or that is in any other  
17 manner perceptible to the senses. "Tangible personal  
18 property" includes electricity, water, gas, steam and  
19 prewritten computer software and includes any controlled  
20 substance as defined by W.S. 35-7-1002(a)(iv) which is not  
21 sold pursuant to a written prescription of or through a  
22 licensed practitioner as defined by W.S. 35-7-1002(a)(xx);

23

24 **39-16-104. Taxation rate.**

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2 (f) Any vendor or certified service provider relying  
3 on an incorrect rate, boundary or jurisdictional  
4 information provided by the department in its tax rate  
5 database required under the streamlined sales and use tax  
6 agreement shall not be held liable for any under collection  
7 of tax caused by the department's error.

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**39-16-105. Exemptions.**

10

11 (a) The following purchases or leases are exempt from  
12 the excise tax imposed by this article:

13

14 (vi) For the purpose of exempting sales of  
15 services and tangible personal property and services which  
16 are essential human goods and services, the following are  
17 exempt:

18

19 (A) Purchases of the following tangible  
20 personal property sold under a prescription: drugs for  
21 human relief excluding "over-the-counter-drugs", insulin  
22 for human relief and any syringe, needle or other device  
23 necessary for the administration thereof, oxygen ~~and oxygen~~  
24 ~~concentrators~~—for medical use, blood plasma, prosthetic

1 devices, hearing aids, ~~crutches, wheelchairs,~~ eyeglasses,  
2 contact lenses, mobility enhancing equipment, durable  
3 medical equipment and any assistive device. As used in  
4 this subparagraph, "assistive device" means any item, piece  
5 of equipment or product system, as defined by department  
6 rule, which is used to increase, maintain or improve the  
7 functional capabilities of an individual with a permanent  
8 disability, excluding any medical device, surgical device  
9 or organ implanted or transplanted into or attached  
10 directly to an individual.

11

12 **39-16-203. Imposition.**

13

14 (a) Taxable event. The following shall apply:

15

16 (i) The following provisions apply to imposition  
17 of the general purpose excise tax under W.S.  
18 39-16-204(a)(i):

19

20 (A) Except as provided by subparagraph (F)  
21 of this paragraph, no tax shall be imposed under W.S.  
22 39-16-204(a)(i) until the proposition to impose the taxes  
23 is submitted to the vote of the qualified electors of the  
24 county, and a majority of those casting their ballots vote

1 in favor of imposing the taxes. A county may impose both  
2 taxes authorized in W.S. 39-16-204(a)(i) and (ii), but the  
3 proposition to impose each tax shall be individually stated  
4 and voted upon. Except as otherwise provided, excise taxes  
5 imposed under this paragraph shall commence ~~on the first~~  
6 ~~day of the second month~~ as provided by W.S. 39-16-207(c)  
7 following the election approving the imposition of the tax;

8

9 (ii) The following provisions apply to  
10 imposition of the specific purpose excise tax under W.S.  
11 39-16-204(a)(ii):

12

13 (C) No tax shall be imposed under this  
14 subsection until the proposition to impose the tax for  
15 specific purposes in specific amounts is approved by the  
16 vote of the majority of the qualified electors voting on  
17 the proposition. The amount of revenue to be collected and  
18 the purpose or purposes for which it is proposed to be used  
19 shall be specified in the proposition. The election shall  
20 be held in accordance with W.S. 22-21-101 through  
21 22-21-112. Any debt created may also be repaid, in whole or  
22 in part, by a property tax levy if general obligation bonds  
23 are authorized by the electors. Provided, any excise tax  
24 imposed under this subsection shall commence ~~on the first~~

1 ~~day of the second month~~ as provided by W.S. 39-16-207(c)  
2 following the election approving the imposition of the tax,  
3 except that it shall commence on the first day of any  
4 subsequent month following the receipt of tax funds in the  
5 approved amount by any tax previously imposed under this  
6 subsection as provided by subparagraph (E) of this  
7 paragraph. Unless terminated earlier by the sponsoring  
8 entities pursuant to subparagraph (G) of this paragraph,  
9 the tax shall terminate ~~on the last day of the month~~  
10 ~~following the month in which~~ as provided by W.S.  
11 39-16-207(c) when the amount approved by the electors is  
12 collected;

13

14 **Section 2.** This act is effective immediately upon  
15 completion of all acts necessary for a bill to become law  
16 as provided by Article 4, Section 8 of the Wyoming  
17 Constitution.

18

19

(END)