

ORIGINAL HOUSE
BILL NO. 0091

ENROLLED ACT NO. 23, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2008 BUDGET SESSION

AN ACT relating to sales and use tax; providing amendments to conform with the provisions of the streamlined sales and use tax agreement; and providing for an effective date.

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

Section 1. W.S. 39-15-101(a)(viii)(C)(II), by creating new subdivisions (III) and (IV) and by creating a new paragraph (xlii), 39-15-104(f)(i)(C) and (iv)(C), 39-15-106(a), 39-16-104(e)(i)(C) and (iv)(C) and 39-16-106(a) are amended to read:

39-15-101. Definitions.

(a) As used in this article:

(viii) "Sales price":

(C) "Sales price" shall include consideration received by the seller from third parties if:

(II) The seller has an obligation to pass the price reduction or discount through to the purchaser;i

(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

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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.

(xlii) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

39-15-104. Taxation rate.

(f) The tax rate imposed upon a transaction subject to this chapter shall be sourced as follows:

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(i) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(C) ~~If it is undeterminable by the seller whether the product was received by the purchaser at a business location of the seller~~ When subparagraphs (A) and (B) of this paragraph do not apply, the sale shall be sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(iv) The retail sale, including lease or rental of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of paragraph (i) of this subsection. As used in this paragraph, "transportation equipment" means any of the following:

(C) Aircraft that are operated by an air carrier authorized and certified by the United States department of transportation or another federal authority or foreign authority to engage in the carriage of persons or property in interstate or foreign commerce;

39-15-106. Licenses; permits.

(a) Every vendor shall obtain from the department a sales tax license to conduct business in the state. Any out-of-state vendor not otherwise subject to this article may voluntarily apply for a license from the department and if licensed, shall collect and remit the state sales tax imposed by W.S. ~~39-15-103~~ 39-15-104. The license shall be granted only upon application stating the name and address of the applicant, the character of the business in which the applicant proposes to engage, the location of the

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proposed business and other information as the department may require. Effective July 1, 1997, a license fee of sixty dollars (\$60.00) shall be required from each new vendor, except for any remote vendor who has no requirement to register in this state, ~~and or~~ who is using one (1) of the technology models pursuant to ~~W.S. 39-15-401, et seq~~ the streamlined sales and use tax agreement. Failure of a vendor to timely file any return may result in forfeiture of the license granted under this section. The department shall charge sixty dollars (\$60.00) for reinstatement of any forfeited license. The department shall send any vendor who reports no gross sales for three (3) consecutive years a form prescribed by the department to show cause why the vendor's license should not be revoked. The vendor shall complete and file the report with the department within thirty (30) days of receipt of the form. If the department finds just cause for the vendor to retain the license, no further action shall be taken. If the department finds just cause to revoke the license, the vendor shall be notified of the revocation. Any vendor whose license is revoked under this subsection may appeal the decision to the state board of equalization.

39-16-104. Taxation rate.

(e) The tax rate imposed upon a transaction subject to this chapter shall be sourced as follows:

(i) The retail purchase, excluding lease or rental, of a product shall be sourced as follows:

(C) ~~If it is undeterminable by the seller whether the product was received by the purchaser at a business location of the seller~~ When subparagraphs (A) and (B) of this paragraph do not apply, the purchase shall be sourced to the location indicated by an address for the

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purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(iv) The retail purchase, including lease or rental of transportation equipment shall be sourced the same as a retail purchase in accordance with the provisions of paragraph (i) of this subsection. As used in this paragraph, "transportation equipment" means any of the following:

(C) Aircraft that are operated by an air carrier authorized and certified by the United States department of transportation or another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce;

39-16-106. Licenses; permits.

(a) Every vendor shall register with the department of revenue, giving the name and address of all agents operating in the state and the location of all places of business together with other information as required by the department. Effective July 1, 1997, a license fee of sixty dollars (\$60.00) shall be required from each new vendor, except for any remote vendor who has no requirement to register in this state, ~~and or~~ who is using one (1) of the technology models pursuant to ~~W.S. 39-15-401, et seq~~ the streamlined sales and use tax agreement. Failure of a vendor to timely file any return may result in forfeiture of the license granted under this section. The department shall charge sixty dollars (\$60.00) for reinstatement of any forfeited license. Any out-of-state vendor not otherwise subject to this article may voluntarily register

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with the department and if registered, shall collect and remit the state use tax imposed by W.S. 39-16-104.

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk