

SENATE FILE NO. SF0100

Sales tax overpayments-refund period.

Sponsored by: Senator(s) Cooper

A BILL

for

1 AN ACT relating to sales and use tax; changing the refund  
2 period for overpayment of sales and use tax; conforming  
3 related provisions including retaining records and  
4 collecting delinquent taxes; specifying applicability; and  
5 providing for an effective date.

6

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

8

9       **Section 1.**       W.S. 39-15-107(a)(ii), (v) and (x),  
10 39-15-108(c)(xi), 39-15-109(c)(i) and (d)(i), 39-15-110,  
11 39-16-108(c)(vii), 39-16-109(c)(i) and 39-16-110 are  
12 amended to read:

13

14       **39-15-107. Compliance; collection procedures.**

15

16       (a) Returns, reports and preservation of records.

17 The following shall apply:

1

2 (ii) Every vendor and person liable for the  
3 payment of sales tax under this article shall preserve for  
4 ~~three (3)~~ five (5) years at his principal place of  
5 business, suitable records and books as may be necessary to  
6 determine the amount of tax for which he is liable under  
7 this article, together with all invoices and books showing  
8 all merchandise purchased for resale. All records, books  
9 and invoices shall be available for examination by the  
10 department during regular business hours except as arranged  
11 by mutual consent;

12

13 (v) The department shall preserve returns and  
14 reports for ~~three (3)~~ five (5) years;

15

16 (x) Taxes paid on gross receipts represented by  
17 accounts found to be worthless may be credited against  
18 subsequent liability of the vendor. The vendor shall not  
19 take the credit for any bad debt until he has used the  
20 customary debt collection procedures as documented in  
21 writing by the vendor and has written off the debt; or  
22 until the debt qualifies as a bad debt under 26 U.S.C.  
23 section 166 excluding financing charges or interest, sales  
24 or use taxes charged on the purchase price, uncollectible

1 amounts on property that remain in the possession of the  
2 seller until the full purchase price is paid, any expenses  
3 incurred in attempting to collect any debt, and repossessed  
4 property. If any account is thereafter collected by the  
5 vendor, a tax shall be paid upon the amount collected. The  
6 amount collected shall be applied proportionally first to  
7 the taxable price of the property or service and the sales  
8 tax thereon, and then to interest, service charges and any  
9 other charges. Should the bad debt exceed the taxable  
10 sales for a subsequent period the vendor may request a  
11 refund of the tax on the bad debt from the department so  
12 long as the claim is made within ~~three (3)~~ five (5) years  
13 of the date of the return on which the bad debt could first  
14 be claimed. A certified service provider under W.S.  
15 39-15-401 through 39-15-408 acting on behalf of a vendor  
16 may claim the bad debt allowance for the vendor and shall  
17 remit the credit or refund received to the vendor. Should  
18 the bad debt apply to more than one (1) state, the debt may  
19 be allocated between the affected states.

20

21 **39-15-108. Enforcement.**

22

23 (c) Penalties. The following shall apply:

24

1           (xi) Every vendor shall preserve for ~~three (3)~~  
2 five (5) years at his principal place of business, suitable  
3 records and books as may be necessary to determine the  
4 amount of tax for which he is liable under this article,  
5 together with all invoices and books showing all  
6 merchandise purchased for resale. All records, books and  
7 invoices shall be available for examination by the  
8 department during regular business hours except as arranged  
9 by mutual consent;

10

11           **39-15-109. Taxpayer remedies.**

12

13           (c) Refunds. The following shall apply:

14

15           (i) Any tax, penalty or interest which has been  
16 erroneously paid, collected or computed shall either be  
17 credited against any subsequent tax liability of the vendor  
18 or refunded. No credit or refund shall be allowed after  
19 ~~three (3)~~ five (5) years from the date of overpayment. The  
20 receipt of a claim for a refund by the department shall  
21 toll the statute of limitations. All refund requests  
22 received by the department shall be approved or denied  
23 within ninety (90) days of receipt. Any refund or credit  
24 erroneously made or allowed may be recovered in an action

1 brought by the attorney general in any court of competent  
2 jurisdiction;

3

4 (d) Credits. The following shall apply:

5

6 (i) Any tax, penalty or interest which has been  
7 erroneously paid, collected or computed shall either be  
8 credited against any subsequent tax liability of the vendor  
9 or refunded. No credit or refund shall be allowed after  
10 ~~three (3)~~ five (5) years from the date of overpayment. The  
11 receipt of a claim for a refund by the department shall  
12 toll the statute of limitations. Any refund or credit  
13 erroneously made or allowed may be recovered in an action  
14 brought by the attorney general in any court of competent  
15 jurisdiction;

16

17 **39-15-110. Statute of limitations.**

18

19 (a) No credit or refund shall be allowed after ~~three~~  
20 ~~(3)~~ five (5) years from the date of overpayment. The  
21 receipt of a claim for a refund by the department shall  
22 toll the statute of limitations.

23

1           (b) The department may bring an action to recover any  
2 delinquent taxes, penalty or interest in any appropriate  
3 court within ~~three (3)~~ five (5) years following the  
4 delinquency. In the case of an assessment created by an  
5 audit, the delinquency period is deemed to start thirty  
6 (30) days after the date the assessment letter is sent. Any  
7 tax penalty and interest related to the audit assessment  
8 shall be calculated from the filing period during which the  
9 deficiency occurred. In any such action a certificate by  
10 the department is prima facie evidence of the amount due.

11

12           **39-16-108. Enforcement.**

13

14           (c) Penalties. The following shall apply:

15

16           (vii) The department may bring an action to  
17 recover any delinquent taxes, penalty or interest in any  
18 appropriate court within ~~three (3)~~ five (5) years following  
19 the delinquency. In the case of an assessment created by an  
20 audit, the delinquency period is deemed to start thirty  
21 (30) days after the date the assessment letter is sent.  
22 Any Tax penalty and interest related to the audit  
23 assessment shall be calculated from the filing period  
24 during which the deficiency occurred. In such action a

1 certificate by the department is prima facie evidence of  
2 the amount due;

3

4 **39-16-109. Taxpayer remedies.**

5

6 (c) Refunds. The following shall apply:

7

8 (i) Any tax, penalty or interest which has been  
9 erroneously paid, collected or computed shall on department  
10 approval be credited against any subsequent tax liability  
11 from the payee or may be refunded. No credit or refund  
12 shall be allowed after ~~three (3)~~ five (5) years from the  
13 date of overpayment. The receipt of a claim for a refund by  
14 the department shall toll the statute of limitations. All  
15 refund requests received by the department shall be  
16 approved or denied within ninety (90) days of receipt. Any  
17 refund or credit erroneously made or allowed may be  
18 recovered in an action brought by the attorney general in a  
19 court of competent jurisdiction in Laramie county, Wyoming.

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21 **39-16-110. Statute of limitations.**

22

23 (a) Every vendor and person storing, using or  
24 consuming tangible personal property in this state shall

1 preserve within this state for ~~three (3)~~ five (5) years  
2 suitable records and books as may be necessary to determine  
3 the amount of tax for which he is liable under the  
4 provisions of this article, together with invoices and  
5 books showing all merchandise purchased. All records, books  
6 and invoices shall be available for examination by the  
7 department during regular business hours except as arranged  
8 by mutual consent.

9  
10 (b) No credit or refund shall be allowed after ~~three~~  
11 ~~(3)~~ five (5) years from the date of overpayment. The  
12 receipt of a claim for a refund by the department shall  
13 toll the statute of limitations. All refund requests  
14 received by the department shall be approved or denied  
15 within ninety (90) days of receipt.

16  
17 **Section 2.** This act shall be deemed to allow a refund  
18 of overpaid taxes or a collection of delinquent taxes for  
19 any applicable amount for the five (5) years immediately  
20 preceding the effective date of this act if the necessary  
21 records have been retained for that five (5) year period as  
22 specified in section 1 of this act.

23



1           **Section 3.**   This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

5

6

(END)