

ORIGINAL SENATE  
FILE NO. SF0020

ENROLLED ACT NO. 23, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING  
2016 BUDGET SESSION

AN ACT relating to sales and use tax; providing that sales and use tax erroneously collected from a taxpayer shall not be refunded or credited to the vendor except as specified; repealing a conflicting provision; and providing for an effective date.

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

**Section 1.** W.S. 39-15-107(a)(ix) and (b)(vii), 39-15-109(c)(i), (d)(i) and (iv) and 39-16-109(c)(i), (d)(i) and (ii) are amended to read:

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

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

(ix) As soon as practicable after the return is filed the department shall examine it and if it appears from the information on the return the tax to be remitted is incorrect, it-the tax shall be recomputed. If the amount paid-remitted exceeds that which is due from the recomputed return, the excess shall be refunded to-the-vendor-or person-who-submitted-the-return or credited against-any subsequent-liability-of-the-vendor-or-person-who-submitted-the-return as provided in W.S. 39-15-109(c) and (d);

(b) Payment. The following shall apply:

(vii) If any vendor collects a tax in excess of that imposed by this article it shall be remitted to the department after making reasonable attempts to identify and refund the excess tax to the taxpayer that originally paid the tax;

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

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(c) Refunds. The following shall apply:

(i) Any tax, penalty or interest which has been erroneously paid, ~~collected or~~ computed or remitted to the department by a vendor shall either be credited against any subsequent tax liability of the vendor or refunded. If a vendor erroneously collects taxes from a taxpayer and remits those taxes to the department, the vendor may seek a refund or credit against subsequent tax liability only after the vendor has refunded the erroneously collected tax to the taxpayer that originally paid the tax to the vendor. If the taxpayer that originally paid the tax to the vendor cannot be identified, the tax shall not be refunded or credited to the vendor. No credit or refund shall be allowed after three (3) years from the date of overpayment. The receipt of a claim for a refund by the department shall toll the statute of limitations. All refund requests received by the department shall be approved or denied within ninety (90) days of receipt. Any refund or credit erroneously made or allowed may be recovered in an action brought by the attorney general in any court of competent jurisdiction;

(d) Credits. The following shall apply:

(i) Any tax, penalty or interest which has been erroneously paid, ~~collected or~~ computed or remitted to the department by a vendor shall either be credited against any subsequent tax liability of the vendor or refunded. If a vendor erroneously collects taxes from a taxpayer and remits those taxes to the department, the vendor may seek a credit against subsequent tax liability or a refund only after the vendor has refunded the erroneously collected tax to the taxpayer that originally paid the tax to the vendor.

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If the taxpayer that originally paid the tax to the vendor cannot be identified, the tax shall not be credited or refunded to the vendor. No credit or refund shall be allowed after three (3) years from the date of overpayment. The receipt of a claim for a refund by the department shall toll the statute of limitations. Any refund or credit erroneously made or allowed may be recovered in an action brought by the attorney general in any court of competent jurisdiction;

(iv) The taxpayer or vendor is entitled to receive an offsetting credit for any overpaid excise tax identified by an audit that is within the scope of the audit period, without regard to the limitation period for requesting refunds. This paragraph shall not apply to any tax which was erroneously collected from a taxpayer and remitted by a vendor unless the auditor can determine that the erroneously collected taxes have been refunded to the taxpayer that originally paid the tax to the vendor.

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

(c) Refunds. The following shall apply:

(i) Any tax, penalty or interest which has been erroneously paid, ~~collected or~~ computed or remitted to the department by a vendor shall on department approval be credited against any subsequent tax liability from the payee or may be refunded. If a vendor erroneously collects taxes from a taxpayer and remits those taxes to the department, the vendor may seek a refund or credit against subsequent tax liability only after the vendor has refunded the erroneously collected tax to the taxpayer that originally paid the tax to the vendor. If the taxpayer that originally paid the tax to the vendor cannot be identified,

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the tax shall not be refunded or credited to the vendor. No credit or refund shall be allowed after three (3) years from the date of overpayment. The receipt of a claim for a refund by the department shall toll the statute of limitations. All refund requests received by the department shall be approved or denied within ninety (90) days of receipt. Any refund or credit erroneously made or allowed may be recovered in an action brought by the attorney general in a court of competent jurisdiction in Laramie county, Wyoming.

(d) Credits. The following shall apply:

(i) Any tax, penalty or interest which has been erroneously paid, ~~collected or~~ computed or remitted to the department by a vendor shall on department approval be credited against any subsequent liability from the payee or may be refunded. If a vendor erroneously collects taxes from a taxpayer and remits those taxes to the department, the vendor may seek a credit against subsequent tax liability or a refund only after the vendor has refunded the erroneously collected tax to the taxpayer that originally paid the tax to the vendor. If the taxpayer that originally paid the tax to the vendor cannot be identified, the tax shall not be credited or refunded to the vendor. Any refund or credit erroneously made or allowed may be recovered in an action brought by the attorney general in a court of competent jurisdiction in Laramie county, Wyoming;

(ii) The taxpayer or vendor is entitled to receive an offsetting credit for any overpaid excise tax identified by an audit that is within the scope of the audit period, without regard to the limitation period for requesting refunds. This paragraph shall not apply to any tax which was erroneously collected from a taxpayer and

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remitted by a vendor unless the auditor can determine that the erroneously collected taxes have been refunded to the taxpayer that originally paid the tax to the vendor;

**Section 2.** W.S. 39-15-109(d) (iii) is repealed.

**Section 3.** This act is effective July 1, 2016.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk