HOUSE BILL NO. HB0117

Data processing services centers-tax exemptions.

Sponsored by: Representative(s) Illoway, Berger, Brown, Buchanan, Byrd, Lubnau, Nicholas, B., Patton, Pedersen and Throne and Senator(s) Burns, Cooper, Emerich, Martin, Nicholas, P. and Ross

A BILL

for

AN ACT relating to sales and use taxes; modifying the requirements for an exemption from sales and use taxes for computer software of data processing services centers; providing for additional sales and use tax exemptions for data processing services centers; specifying requirements for the exemptions; and providing for an effective date.

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

Section 1. W.S. 39-15-105(a)(viii)(S) and 39-16-105(a)(viii)(H) are amended to read:

39-15-105. Exemptions.

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

(viii) For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt:

(S) Subject to meeting the applicable provisions of this subparagraph, the following purchases by a data processing services center as defined in W.S. 39-15-101(a)(xliv):

(I) The sales price paid for the purchase or rental of qualifying prewritten and other computer software, computer equipment including computers, servers, monitors, keyboards, storage devices, containers used to transport and house such computer equipment and other peripherals, racking systems, cabling and trays that are necessary for the operation of a data processing services center when the aggregate purchase of the qualifying equipment exceeds two million dollars ($2,000,000.00) in any calendar year;~~.~~

(II) The sales price paid for the purchase or rental of qualifying uninterruptable power supplies, back-up power generators, specialized heating and air conditioning equipment and air quality control equipment used for controlling the computer environment necessary for the operation of a data processing services center when the aggregate purchase of the qualifying equipment exceeds two million dollars ($2,000,000.00) in any calendar year;

(III) The sales price paid for the purchase of electricity used to operate the qualifying data processing services center for the first three (3) years after the center begins operations;

(IV) For the purpose of claiming ~~this exemption~~ the exemptions in subdivisions (I), (II) and (III) of this subparagraph, the purchaser shall demonstrate to the department that he:

~~(I)~~ (1) Has a physical location in this state where the qualifying ~~computer~~ equipment purchased shall be maintained and operated until the qualifying ~~computer~~ equipment is scheduled for replacement or until it has reached the end of its serviceable life;

~~(II)~~(2) Shall make an initial total capital asset investment in a physical location in this state:

a. For the exemption in subdivision (I) of this subparagraph, of not less than five million dollars ($5,000,000.00) or has made a capital investment in a physical location in this state of not less than five million dollars ($5,000,000.00) in the five (5) years immediately preceding ~~the effective date of this subparagraph~~ March 5, 2010;

b. For the exemption in subdivision (II) or (III) of this subparagraph, of not less than fifty million dollars ($50,000,000.00) or has made a capital investment in a physical location in this state of not less than fifty million dollars ($50,000,000.00) in the five (5) years immediately preceding April 1, 2011. The investment amount specified in this subdivision shall be sufficient to claim either or both exemptions set forth in subdivision (II) and (III) of this subparagraph.

~~(III)~~ (3) Has retained adequate documentation to demonstrate that the total ~~purchase of qualifying computer equipment exceeds~~ qualifying purchases exceed the applicable annual threshold ~~of two million dollars ($2,000,000.00)~~ for each exemption claimed under this subparagraph;

~~(IV)~~ (4) Has received ~~annual~~ certification from the Wyoming business council that the purchaser has created or will create a number of jobs in Wyoming that is appropriate to the size and stage of development of the data processing services center as determined by the Wyoming business council;

~~(V)~~ (5) Will accrue the excise tax on ~~purchase of~~ otherwise qualifying ~~computer equipment~~ purchases where the applicable annual threshold ~~of two million dollars ($2,000,000.00)~~ was not met. The tax shall be remitted to the department not later than the end of January immediately following the end of the calendar year where the threshold was not met to avoid the assessment of penalty and interest on any amount of tax due;

~~(VI)~~(6) Shall keep adequate written records and documentation in accordance with department rule and regulation to show compliance with the requirements of this subparagraph. If the purchaser does not meet all the requirements of this subparagraph, any tax owed shall be remitted to the department not later than the end of January immediately following the end of the calendar year in which the requirements were not met.

39-16-105. Exemptions.

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

(viii) For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt:

(H) Subject to meeting the applicable provisions of this subparagraph, the following purchases by a data processing services center as defined in W.S. 39-15-101(a)(xliv):

(I) The sales price paid for the purchase or rental of qualifying prewritten and other computer software, computer equipment including computers, servers, monitors, keyboards, storage devices, containers used to transport and house such computer equipment, and other peripherals, racking systems, cabling and trays that are necessary for the operation of a data processing services center when the aggregate purchase of the qualifying computer equipment exceeds two million dollars ($2,000,000.00) in any calendar year;~~.~~

(II) The sales price paid for the purchase or rental of qualifying uninterruptable power supplies, back-up power generators, specialized heating and air conditioning equipment and air quality control equipment used for controlling the computer environment necessary for the operation of a data processing services center when the aggregate purchase of the qualifying equipment exceeds two million dollars ($2,000,000.00) in any calendar year;

(III) For the purpose of claiming ~~this exemption~~ the exemptions in subdivisions (I) and (II) of this subparagraph, the purchaser shall demonstrate to the department that he:

~~(I)~~ (1) Has a physical location in this state where the qualifying ~~computer~~ equipment purchased shall be maintained and operated until the qualifying ~~computer~~ equipment is scheduled for replacement or until it has reached the end of its serviceable life;

~~(II)~~ (2) Shall make an initial total capital asset investment in a physical location in this state:

a. For the exemption in subdivision (I) of this subparagraph, of not less than five million dollars ($5,000,000.00) or has made a capital investment in a physical location in this state of not less than five million dollars ($5,000,000.00) in the five (5) years immediately preceding ~~the effective date of this subparagraph~~ March 5, 2010;

b. For the exemption in subdivision (II) of this subparagraph, of not less than fifty million dollars ($50,000,000.00) or has made a capital investment in a physical location in this state of not less than fifty million dollars ($50,000,000.00) in the five (5) years immediately preceding April 1, 2011.

~~(III)~~(3) Has retained adequate documentation to demonstrate that the total ~~purchase of qualifying computer equipment exceeds~~ qualifying purchases exceed the applicable annual threshold ~~of two million dollars ($2,000,000.00)~~ for each exemption claimed under this subparagraph;

~~(IV)~~(4) Has received ~~annual~~ certification from the Wyoming business council that the purchaser has created or will create a number of jobs in Wyoming that is appropriate to the size and stage of development of the data processing services center as determined by the Wyoming business council;

~~(V)~~(5) Will accrue the excise tax on ~~purchase of~~ otherwise qualifying ~~computer equipment~~ purchases where the applicable annual threshold ~~of two million dollars ($2,000,000.00)~~ was not met. The tax shall be remitted to the department not later than the end of January immediately following the end of the calendar year where the threshold was not met to avoid the assessment of penalty and interest on any amount of tax due;

~~(VI)~~(6) Shall keep adequate written records and documentation in accordance with department rule and regulation to show compliance with the requirements of this subparagraph. If the purchaser does not meet all the requirements of this subparagraph, any tax owed shall be remitted to the department not later than the end of January immediately following the end of the calendar year in which the requirements were not met.

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)