

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

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

7

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

9

10 **Section 1.** W.S. 39-15-105(a)(viii)(S) and
11 39-16-105(a)(viii)(H) are amended to read:

12

13 **39-15-105. Exemptions.**

14

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

3
4 (viii) For the purpose of exempting sales of
5 services and tangible personal property as an economic
6 incentive, the following are exempt:

7
8 (S) Subject to meeting the applicable
9 provisions of this subparagraph, the following purchases by
10 a data processing services center as defined in W.S.
11 39-15-101(a)(xliv):

12
13 (I) The sales price paid for the
14 purchase or rental of qualifying prewritten and other
15 computer software, computer equipment including computers,
16 servers, monitors, keyboards, storage devices, containers
17 used to transport and house such computer equipment and
18 other peripherals, racking systems, cabling and trays that
19 are necessary for the operation of a data processing
20 services center when the aggregate purchase of the
21 qualifying equipment exceeds two million dollars
22 (\$2,000,000.00) in any calendar year~~i-~~

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

10
11 (III) The sales price paid for the
12 purchase of electricity used to operate the qualifying data
13 processing services center for the first three (3) years
14 after the center begins operations;

15
16 (IV) For the purpose of claiming ~~this~~
17 ~~exemption~~—the exemptions in subdivisions (I), (II) and
18 (III) of this subparagraph, the purchaser shall demonstrate
19 to the department that he:

20
21 ~~(I)~~(1) Has a physical location in
22 this state where the qualifying ~~computer~~—equipment
23 purchased shall be maintained and operated until the

1 qualifying ~~computer~~ equipment is scheduled for replacement
2 or until it has reached the end of its serviceable life;

3
4 ~~(II)~~ (2) shall make an initial
5 total capital asset investment in a physical location in
6 this state;

7
8 a. For the exemption in
9 subdivision (I) of this subparagraph, of not less than five
10 million dollars (\$5,000,000.00) or has made a capital
11 investment in a physical location in this state of not less
12 than five million dollars (\$5,000,000.00) in the five (5)
13 years immediately preceding ~~the effective date of this~~
14 ~~subparagraph~~ March 5, 2010;

15
16 b. For the exemption in
17 subdivision (II) or (III) of this subparagraph, of not less
18 than fifty million dollars (\$50,000,000.00) or has made a
19 capital investment in a physical location in this state of
20 not less than fifty million dollars (\$50,000,000.00) in the
21 five (5) years immediately preceding April 1, 2011. The
22 investment amount specified in this subdivision shall be
23 sufficient to claim either or both exemptions set forth in
24 subdivision (II) and (III) of this subparagraph.

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~~(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;

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

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10 **39-16-105. Exemptions.**

11

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

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

18

19 (H) Subject to meeting the applicable
20 provisions of this subparagraph, the following purchases by
21 a data processing services center as defined in W.S.
22 39-15-101(a)(xliv):

23

1 (I) The sales price paid for the purchase
2 or rental of qualifying prewritten and other computer
3 software, computer equipment including computers, servers,
4 monitors, keyboards, storage devices, containers used to
5 transport and house such computer equipment, and other
6 peripherals, racking systems, cabling and trays that are
7 necessary for the operation of a data processing services
8 center when the aggregate purchase of the qualifying
9 computer equipment exceeds two million dollars
10 (\$2,000,000.00) in any calendar year;:-

11

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

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22 (III) For the purpose of claiming this
23 exemption—the exemptions in subdivisions (I) and (II) of

1 this subparagraph, the purchaser shall demonstrate to the
2 department that he:

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

9

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

13

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

21

22 b. For the exemption in
23 subdivision (II) of this subparagraph, of not less than
24 fifty million dollars (\$50,000,000.00) or has made a

1 capital investment in a physical location in this state of
2 not less than fifty million dollars (\$50,000,000.00) in the
3 five (5) years immediately preceding April 1, 2011.

4
5 ~~(III)~~ (3) Has retained adequate
6 documentation to demonstrate that the total ~~purchase of~~
7 ~~qualifying computer equipment exceeds~~ qualifying purchases
8 exceed the applicable annual threshold ~~of two million~~
9 ~~dollars (\$2,000,000.00)~~ for each exemption claimed under
10 this subparagraph;

11
12 ~~(IV)~~ (4) Has received annual
13 certification from the Wyoming business council that the
14 purchaser has created or will create a number of jobs in
15 Wyoming that is appropriate to the size and stage of
16 development of the data processing services center as
17 determined by the Wyoming business council;

18
19 ~~(V)~~ (5) Will accrue the excise tax
20 on ~~purchase of~~ otherwise qualifying ~~computer equipment~~
21 purchases where the applicable annual threshold ~~of two~~
22 ~~million dollars (\$2,000,000.00)~~ was not met. The tax shall
23 be remitted to the department not later than the end of
24 January immediately following the end of the calendar year

1 where the threshold was not met to avoid the assessment of
2 penalty and interest on any amount of tax due;

3

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

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

17

18 (END)