HOUSE BILL NO. HB0170

Streamlined sales tax-direct mail.

Sponsored by: Representative(s) Madden

A BILL

for

AN ACT relating to sales tax; providing for the purchase of advertising and direct mail as specified in accordance with the streamlined sales tax agreement; providing definitions; repealing obsolete provisions; and providing for an effective date.

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

Section 1. W.S. 39-15-104(f) by creating new paragraphs (xii) through (xvi) is amended to read:

39-15-104. Taxation rate.

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

(xii) A purchaser of advertising and promotional direct mail may provide the seller with either:

(A) A direct pay permit;

(B) An agreement certificate of exemption claiming direct mail or other written statement approved, authorized or accepted by the state; or

(C) Information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(xiii) If a purchaser provides a permit, certificate or statement under subparagraph (xii)(A) or (B) of this subsection, the seller, in the absence of bad faith, is relieved of any obligation to collect, pay or remit any tax on any transaction involving advertising and promotional direct mail to which the permit, certificate or statement applies. The purchaser shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients and shall pay any applicable tax due;

(xiv) If the purchaser provides the seller information showing the jurisdictions where the advertising and promotional direct mail is to be delivered to recipients, the seller shall source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and shall collect and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller has sourced the sale according to the delivery information provided by the seller;

(xv) If the purchaser does not provide the seller with any of the items under paragraph (f)(vi) of this section, the sale shall be sourced according to subparagraph (f)(i)(E) of this section;

(xvi) As used in this subsection:

(A) "Advertising and promotional direct mail" means printed material that meets the definition of direct mail the primary purpose of which is to attract public attention to a product, person, business or organization or to attempt to sell, popularize or secure financial support for a product, person, business or organization;

(B) "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;

(C) "Product" means tangible personal property, a product transferred electronically or a service;

(D) "Other direct mail" means any direct mail that is not advertising and promotional direct mail regardless of whether advertising and promotional direct mail is included in the same mailing. "Other direct mail" includes, but is not limited to:

(I) Transactional mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account and payroll advices;

(II) Any legally required mailing including, but not limited to, privacy notices, tax reports and stockholder reports;

(III) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees or agents including, but not limited to, newsletters and informational documents.

(E) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental.

Section 2. W.S. 39-15-104(f)(vi) through (viii) is repealed.

Section 3. 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)