

HOUSE BILL NO. HB0182

Personal income tax.

Sponsored by: Representative(s) Yin and Connolly and
Senator(s) Rothfuss

A BILL

for

1 AN ACT relating to taxation; creating the Wyoming Personal
2 Income Tax Act; imposing a tax on personal income as
3 specified; providing for administration; providing
4 penalties; requiring rulemaking; requiring a report; and
5 providing for effective dates.

6

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

8

9 **Section 1.** W.S. 39-12-102 through 39-12-111 are
10 created to read:

11

12 **39-12-102. Administration; confidentiality.**

13

14 (a) This chapter is known and may be cited as the
15 "Wyoming Personal Income Tax Act".

1

2 (b) The administration of this chapter is vested in
3 the department of revenue. The department shall administer
4 this chapter using the multistate tax compact as a guide to
5 the extent that the compact does not conflict with this
6 chapter or other Wyoming law.

7

8 (c) The department shall, to the extent practical,
9 obtain information from the federal internal revenue
10 service to verify taxable income under this chapter. The
11 department shall adopt rules and regulations necessary to
12 efficiently secure the payment, collection and accounting
13 for taxes imposed by this chapter.

14

15 (d) Notices required to be mailed by the department
16 under this chapter if mailed to the address shown on the
17 records of the department shall be sufficient for the
18 purposes of this chapter.

19

20 (e) No state employee or other person who by his
21 employment in connection with the state gains knowledge of
22 the business affairs of any person filing or required to
23 file any tax returns under this chapter shall make known

1 their contents in any manner or permit any person to have
2 access to any returns or information contained therein
3 except as provided by law. The department may also allow
4 the following:

5

6 (i) The delivery to the taxpayer or his legal
7 representatives upon written request of a copy of any
8 return or report in connection with the tax imposed by this
9 chapter;

10

11 (ii) The publication of statistics formatted to
12 prevent the identification of particular returns or
13 reports;

14

15 (iii) The inspection by the Wyoming attorney
16 general of the report or return of any person who brings an
17 action against the state relating to the report or return,
18 or against whom an action is contemplated or has been
19 instituted;

20

21 (iv) If otherwise admissible as evidence, the
22 introduction into evidence of any report or return or
23 information therefrom in any administrative or court

1 proceeding relating to the report or return and to which
2 the person making the report or return is a party;

3

4 (v) The furnishing of any information to the
5 United States government and its territories, the District
6 of Columbia, any state allowing similar privileges to the
7 department or to the multistate tax commission for relay to
8 tax officials of cooperating states. Information furnished
9 shall be only for tax purposes;

10

11 (vi) The inspection of tax returns and records
12 by the state department of audit;

13

14 (vii) The sharing of information with local
15 governmental entities and other state agencies, provided a
16 written request is made to the department and the
17 governmental entity or agency demonstrates sufficient
18 reason to obtain the information for official business
19 purposes. Information furnished shall be used for official
20 business purposes only.

21

1 (f) The district court of the county in which
2 violations of this subsection occur shall have jurisdiction
3 over those violations. No person shall:

4

5 (i) Fail or refuse to make any return or payment
6 required by this chapter;

7

8 (ii) Make any false return or statement;

9

10 (iii) Evade the payment of any tax due;

11

12 (iv) Aid or abet another in any attempt to evade
13 payment of the tax due;

14

15 (v) Knowingly attest by signature to a false or
16 fraudulent return.

17

18 **39-12-103. Imposition.**

19

20 (a) Taxable event. There is levied an income tax upon
21 the taxable personal income of each taxpayer in this state.

22

1 (b) Apportionment of personal income shall be as
2 follows and for the purposes of W.S. 39-12-101(b)(v)(E):

3
4 (i) If a taxpayer has no income from activity
5 that is taxable outside of Wyoming, the taxpayer's entire
6 taxable personal income shall be allocated to Wyoming;

7
8 (ii) A taxpayer having income from activity that
9 is taxable both within and without Wyoming shall apportion
10 and allocate the taxable personal income as provided in
11 this subsection;

12
13 (iii) Income is taxable in another state if:

14
15 (A) In that other state, the income is
16 subject to a net income tax, a franchise tax measured by
17 net income or any similar tax; or

18
19 (B) That other state has jurisdiction to
20 subject the income to a net income tax regardless of
21 whether, in fact, the state subjects the taxpayer to the
22 tax.

23

1 (iv) Taxable income under this subsection shall
2 be apportioned to Wyoming by multiplying the income by a
3 fraction, the numerator of which is the total income earned
4 in Wyoming during the tax period and the denominator of
5 which is the income of the taxpayer everywhere during the
6 tax period. To the extent necessary, the department shall
7 by rule and regulation determine whether income was earned
8 in Wyoming or elsewhere.

9

10 (c) Rents and royalties from real or tangible
11 personal property, capital gains, interest, dividends or
12 patent or copyright royalties, to the extent they are not
13 considered business income, shall be allocated, net of
14 related expenses, as provided in this section.

15

16 (d) The department may require taxpayers to provide
17 additional information and documentation related to the
18 apportionment and allocation of income to support an income
19 tax return under this chapter.

20

21 **39-12-104. Taxation rate.**

22

1 There is levied and shall be paid by the taxpayer an annual
2 income tax at a rate of four percent (4%) on that portion
3 of taxable income of the taxpayer that is allocated and
4 apportioned to Wyoming.

5

6 **39-12-105. Exemptions.**

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8 There are no specific applicable provisions for exemptions
9 for this chapter.

10

11 **39-12-106. Licenses and permits.**

12

13 There are no specific applicable provisions for licenses
14 and permits for this chapter.

15

16 **39-12-107. Compliance; collection procedures.**

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18 (a) Returns and reports. Each taxpayer shall report
19 their total taxable income and the portion of the income
20 that is apportioned to Wyoming as provided in W.S.
21 39-12-103 to the department not more than thirty (30) days
22 after the date the taxpayer is required to file a federal
23 income tax return under the provisions of the Internal

1 Revenue Code including any extensions authorized for filing
2 of the federal income tax return.

3

4 (b) Payment. Any taxpayer owing a tax under this
5 chapter shall pay the tax once each year at the same time
6 the report under subsection (a) of this section is
7 provided. The tax shall be collected by the department.

8

9 (c) Timelines. There are no specific applicable
10 provisions for timelines for this chapter.

11

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

13

14 (a) Audits. To assess credits and deficiencies
15 against taxpayers, the department is authorized to rely on
16 final audit findings made by the department of audit,
17 taxpayer information or information reported by the
18 taxpayer to the Internal Revenue Service or to the
19 department of revenue subject to the following conditions:

20

21 (i) Audits shall commence when the taxpayer
22 receives written notice of the engagement of the audit. The
23 issuance of the written notice of the audit shall toll the

1 statute of limitations provided in W.S. 39-12-110 for the
2 audit period specified in this subsection;

3

4 (ii) After receiving notice of an audit under
5 this subsection, the taxpayer shall preserve all records
6 and books necessary to determine the amount of tax due for
7 the time period that is being audited;

8

9 (iii) Except as otherwise provided in this
10 paragraph, audits shall encompass a time period not to
11 exceed three (3) years immediately preceding the reporting
12 period when the audit is engaged. The three (3) year limit
13 shall not apply to an audit if there is evidence of gross
14 negligence or intent to evade by the taxpayer in reporting
15 or remitting taxes for the reporting period being audited;

16

17 (iv) If a taxpayer is not willing or able to
18 produce adequate records to demonstrate taxes due, the
19 department or the department of audit may project taxes
20 based on the best information available;

21

22 (v) The department of audit may contract with or
23 employ auditors or other technical assistance necessary to

1 determine whether the taxes imposed by this chapter have
2 been properly reported and paid;

3

4 (vi) Audits under this subsection are subject to
5 the authority and procedures provided in W.S. 9-2-2003.

6

7 (b) Interest. The following shall apply:

8

9 (i) Interest at an annual rate equal to the
10 average prime interest as determined by the state treasurer
11 during the preceding fiscal year, plus four percent (4%),
12 shall be added to all delinquent taxes under this chapter.
13 To determine the average prime interest rate, the state
14 treasurer shall average the prime interest for at least
15 seventy-five percent (75%) of the thirty (30) largest banks
16 in the United States. The interest rate on delinquent
17 taxes shall be adjusted on January 1 of each year following
18 the year in which the taxes first became delinquent. In no
19 instance shall the delinquent interest rate be less than
20 twelve percent (12%) nor greater than eighteen percent
21 (18%);

22

1 (ii) The department may credit or waive interest
2 imposed by this subsection as part of a settlement or for
3 any other good cause.

4

5 (c) Penalties. The following shall apply:

6

7 (i) If any part of a deficiency is due to
8 negligence or intentional disregard of statute or rules and
9 regulations but without intent to defraud there shall be
10 added a penalty of ten percent (10%) of the amount of the
11 deficiency plus interest as provided by paragraph (b)(i) of
12 this section. The taxes, penalty and interest shall be paid
13 by the taxpayer within ten (10) days after notice and
14 demand is made by the department;

15

16 (ii) If any part of the deficiency is due to
17 fraud with intent to evade there shall be added a penalty
18 of twenty-five percent (25%) of the amount of the
19 deficiency plus interest as provided by paragraph (b)(i) of
20 this section. The taxes, penalty and interest shall be paid
21 by the taxpayer within ten (10) days after notice and
22 demand is made by the department;

23

1 (iii) Any person who files a false or fraudulent
2 return is subject to the provisions of W.S. 6-5-303;

3

4 (iv) Any person who violates any provision of
5 this chapter for which there are no specific penalties is
6 guilty of a misdemeanor and upon conviction shall be fined
7 not more than one thousand dollars (\$1,000.00). Each
8 violation is a separate offense;

9

10 (v) If a taxpayer fails to file a return as
11 required by this chapter, the department shall give written
12 notice by mail to the taxpayer to file a return on or
13 before the last day of the month following the notice of
14 delinquency. If a taxpayer then fails to file a return the
15 department shall make a return from the best information
16 available, which will be prima facie correct and the tax
17 due therein is a deficiency and subject to penalties and
18 interest as provided by this chapter;

19

20 (vi) The department may credit or waive
21 penalties imposed by this subsection as part of a
22 settlement or for any other good cause.

23

1 (d) Liens. The following shall apply:

2

3 (i) Any tax due under this chapter constitutes a
4 debt to the state from the taxpayer, and is a lien from the
5 date the tax is due on all the real and personal property
6 of the taxpayer. Notice of the lien shall be filed with the
7 county clerk of the county in which the taxpayer resides or
8 conducts business. The lien does not have preference over
9 preexisting secured indebtedness but shall have priority
10 from and after the date of filing or recording. The
11 department shall cancel lien statements within sixty (60)
12 days after taxes due are paid or collected. No other action
13 by the department is required to perfect a lien under this
14 paragraph regardless of the type of property involved.

15

16 (e) Tax sales. The following shall apply:

17

18 (i) The tax due together with interest,
19 penalties and costs may be collected by appropriate
20 judicial proceedings or the department, with board
21 approval, or its representative, may seize and sell at
22 public auction so much of the taxpayer's property as will
23 pay all the tax then due plus interest, penalties and

1 costs. Notice of the auction shall be published for four
2 (4) weeks in a newspaper published in the resident county
3 of the taxpayer or the county in which the majority of the
4 property is located.

5

6 **39-12-109. Taxpayer remedies.**

7

8 (a) Interpretation requests. A taxpayer may request
9 and the department shall provide written interpretations of
10 these statutes and rules adopted by the department. When
11 requesting an interpretation, a taxpayer shall set forth
12 the facts and circumstances pertinent to the issue. If the
13 department deems the facts and circumstances provided to be
14 insufficient, it may request additional information. A
15 taxpayer may act in reliance upon a written interpretation
16 through the end of the calendar year in which the
17 interpretation was issued, or until revoked by the
18 department, whichever occurs last if the pertinent facts
19 and circumstances were substantially correct and fully
20 disclosed.

21

22 (b) Appeals. Except as provided by this subsection,
23 no person aggrieved by the payment of the taxes, penalty

1 and interest imposed by this chapter may appeal a decision
2 of the state board of equalization until all taxes, penalty
3 and interest have been paid. For good cause shown, the
4 court to which the decision of the board is appealed may
5 stay enforcement of the tax during the pendency of the
6 appeal. The court's stay of enforcement shall not affect
7 the accruing of interest upon any assessment and levy.

8

9 (c) Refunds. The following shall apply:

10

11 (i) Any tax, penalty or interest which has been
12 erroneously paid or remitted to the department by a
13 taxpayer shall either be credited against any subsequent
14 tax liability of the taxpayer or refunded. No credit or
15 refund shall be allowed after three (3) years from the date
16 of overpayment. The receipt of a claim for a refund by the
17 department shall toll the statute of limitations under W.S.
18 39-12-110. All refund requests received by the department
19 shall be approved or denied within ninety (90) days of
20 receipt. Any refund or credit erroneously made or allowed
21 may be recovered in an action brought by the attorney
22 general in any court of competent jurisdiction.

23

1 (d) Credits. The following shall apply:

2

3 (i) Each taxpayer is entitled to a credit
4 against tax liability under this chapter for all excise,
5 sales, use, severance and ad valorem taxes paid in the tax
6 year by the same taxpayer to any taxing authority in
7 Wyoming. No credit shall be allowed for any tax collected
8 or remitted by the taxpayer on behalf of another person
9 including property taxes paid by the taxpayer on property
10 that is not owned by the taxpayer. The taxpayer shall
11 report the credit to the department on the return filed
12 under W.S. 39-12-107. The department may require supporting
13 documentation on the credit claimed under this paragraph.
14 In no case shall any refund be due or payable if the amount
15 of the credit claimed by any taxpayer under this paragraph
16 exceeds the amount of tax due under this chapter. False
17 claims are punishable as provided by W.S. 6-5-303;

18

19 (ii) The taxpayer shall receive an offsetting
20 credit for any overpaid tax identified by an audit that is
21 within the scope of the audit period, without regard to the
22 limitation period for requesting refunds.

23

1 (e) Redemption. There are no specific applicable
2 provisions for redemption for this chapter.

3

4 (f) Escrow. There are no specific applicable
5 provisions for escrow for this chapter.

6

7 **39-12-110. Statute of limitations.**

8

9 (a) Except as otherwise provided in this chapter, no
10 credit or refund shall be allowed after three (3) years
11 from the date of overpayment. The receipt of a claim for a
12 refund by the department shall toll the statute of
13 limitations.

14

15 (b) Except as otherwise provided in this chapter, the
16 department shall not bring an action to recover any
17 delinquent taxes, penalty or interest in any appropriate
18 court more than three (3) years following the delinquency.
19 In the case of an assessment created by an audit, the
20 delinquency period is deemed to start thirty (30) days
21 after the date the assessment letter is sent. Any tax
22 penalty and interest related to the audit assessment shall
23 be calculated from the date on which the deficiency

1 occurred. In any such action a certificate by the
2 department is prima facie evidence of the amount due.

3

4 **39-12-111. Distribution.**

5

6 Revenues collected under W.S. 39-12-104 during each fiscal
7 year shall be recognized as revenue during that fiscal year
8 for accounting purposes. For all revenue collected by the
9 department under W.S. 39-12-104 the department shall
10 transfer the funds to the state treasurer for credit to the
11 school foundation program account.

12

13 **Section 2.** W.S. 39-12-101 is amended to read:

14

15 **39-12-101. Preemption by state; definitions.**

16

17 (a) The state of Wyoming does hereby preempt for
18 itself the field of imposing and levying income taxes,
19 earning taxes, or any other form of tax based on wages or
20 other income and no county, city, town or other political
21 subdivision shall have the right to impose, levy or collect
22 such taxes.

23

1 (b) To the extent they do not conflict with the
2 provisions of this chapter, the terms and definitions of
3 the Internal Revenue Code shall apply to this chapter. As
4 used in this chapter:

5
6 (i) "Business income" means income arising from
7 transactions and activity in the regular course of a
8 business that are not received by an individual as personal
9 income. "Business income" includes income from tangible and
10 intangible property if the acquisition, management and
11 disposition of the property constitute integral parts of
12 the regular trade or operations of the business;

13
14 (ii) "Individual" means a natural person and
15 shall not include a sole proprietorship or other similar
16 business entity;

17
18 (iii) "Personal income" means wages, salary or
19 other income received by an individual. "Personal income"
20 shall not include business income;

21
22 (iv) "Tax year" means the taxable year used by
23 the taxpayer for purposes of the federal income tax;

1

2 (v) "Taxable income" or "taxable personal
3 income" means the federal taxable personal income of a
4 taxpayer as computed under the Internal Revenue Code and
5 reported by the taxpayer to the Internal Revenue Service,
6 adjusted as follows:

7

8 (A) Reduced by any interest received from
9 obligations of the United States that is included in
10 taxable income or in the computation of taxable income on
11 the federal tax return;

12

13 (B) Reduced by any other income included in
14 the taxable income or in the computation of taxable income
15 which is exempt from taxation by this state because of the
16 provisions of the Constitution of Wyoming or the
17 Constitution of the United States;

18

19 (C) Increased by the amount of any income
20 taxes, including income taxes of foreign countries, or
21 franchise or privilege taxes measured by income, to the
22 extent that the taxes were deducted to determine federal
23 taxable income;

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(D) Increased to remove any deductions taken for sales, use, excise, severance and ad valorem taxes paid in the tax year by the same taxpayer to any taxing authority in Wyoming, provided that this subparagraph shall not apply to any credit taken under W.S. 39-12-109(d)(i);

(E) Reduced by the amount of income not allocated and apportioned to this state under the provisions of W.S. 39-12-103, but only to the extent that the amount of net income not allocated and apportioned to this state under the provisions of that section is not included in any adjustment made pursuant to the preceding subparagraphs of this paragraph.

(vi) "Taxpayer" means any person who has taxable personal income earned in Wyoming and who files or is required to file federal income taxes with the Internal Revenue Service. "Taxpayer" includes a married couple filing jointly if the married couple files jointly for purposes of the federal income tax.

1 **Section 3.** The department of revenue shall adopt
2 rules under W.S. 39-12-102 as necessary to begin collection
3 of the tax created by this act in 2023 for tax years
4 beginning on or after January 1, 2022.

5
6 **Section 4.** The department of revenue shall
7 investigate the advisability of Wyoming becoming a member
8 state of the multistate tax commission and the advisability
9 of adopting all or a portion of the multistate tax compact.
10 The investigation shall include a determination of what
11 statutory changes would be required for Wyoming to become a
12 member of the multistate tax commission and any other
13 actions that would be necessary for membership. The
14 department shall report the results of the investigation
15 under this section to the joint revenue interim committee
16 not later than September 1, 2021.

17

1 **Section 5.**

2

3 (a) Sections 3 through 5 of this act are effective
4 immediately upon completion of all acts necessary for a
5 bill to become law as provided by Article 4, Section 8 of
6 the Wyoming Constitution.

7

8 (b) Except as otherwise provided in subsection (a) of
9 this section, this act is effective January 1, 2022.

10

11

(END)