

HOUSE BILL NO. HB0103

Portfolio tax.

Sponsored by: Representative(s) Tipton

A BILL

for

1 AN ACT relating to taxation and revenue; providing for a
 2 personal portfolio tax as specified; providing for
 3 administration and collection of the tax as specified;
 4 providing definitions; providing for rules and regulations;
 5 amending related provisions; and providing for an effective
 6 date.

7

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

9

10 **Section 1.** W.S. 39-12-201 through 39-12-211 are
 11 created to read:

12

13

ARTICLE 2

14

INTANGIBLE PERSONAL PROPERTY TAX

15

16 **39-12-201. Short title; definitions.**

17

1 (a) This act shall be known and may be cited as the
2 "Intangible Personal Property Tax Act."

3

4 (b) As used in this act:

5

6 (i) "Beneficial interest in a foreign trust"
7 means a person has a vested interest, even if subject to
8 divestment, which includes at least a current right to
9 income and either a power to revoke the trust or a general
10 power of appointment as provided by 26 U.S.C. § 2041(b)(1);

11

12 (ii) "Charitable institution" means:

13

14 (A) Any nonprofit corporation operating a
15 physical facility in this state at which are provided
16 charitable services, a reasonable percentage of which shall
17 be without cost to those unable to pay; or

18

19 (B) Any institution qualified as charitable
20 under section 501(c)(3) of the Internal Revenue Code.

21

22 (iii) "Department" means the department of
23 revenue;

24

1 (iv) "Education institution" means:

2

3 (A) A public or nonprofit private school,
4 college or university conducting regular classes and
5 courses of study required for accreditation; or

6

7 (B) A nonprofit library, art gallery or
8 museum open to the public.

9

10 (v) "Financial institution" means any bank,
11 savings and loan association, trust company or credit
12 union, whether chartered or organized under the laws of the
13 any state, the United States or any other country;

14

15 (vi) "Intangible personal property" means all
16 personal property, not excluded by W.S. 39-12-205, which is
17 not in itself intrinsically valuable, but which derives its
18 chief value from that which it represents, including, but
19 not limited to, the following:

20

21 (A) All stocks or shares of incorporated or
22 unincorporated companies, business trusts and mutual funds;

23

1 (B) All notes, bonds and other obligations
2 for the payment of money;

3

4 (C) All condominium and cooperative
5 apartment leases of recreation facilities, land leases and
6 leases of other commonly used facilities.

7

8 (vii) "Money" means any United States legal
9 tender, certificates of deposit, cashier's and certified
10 checks, bills of exchange, drafts, the cash equivalent of
11 annuities and life insurance policies and similar
12 instruments which are held by a taxpayer, or deposited with
13 or held by a financial institution or any other person;

14

15 (viii) "Person" means as defined by W.S.
16 8-1-102(a)(vi);

17

18 (ix) "Religious institution" means any church or
19 ecclesiastical or denominational organization having an
20 established physical place for worship in this state at
21 which nonprofit religious services and activities are
22 regularly conducted, as well as any church cemetery;

23

1 (x) "This act" means W.S. 39-12-201 through
2 39-12-211.

3

4 **39-12-202. Administration.**

5

6 The administration of this act shall be vested with the
7 department of revenue.

8

9 **39-12-203. Imposition.**

10

11 (a) An annual tax is hereby imposed on each dollar of
12 the just valuation of all intangible personal property
13 which has a taxable situs in this state, except for notes
14 and other obligations for the payment of money, other than
15 bonds, which are secured by mortgage, deed of trust, or
16 other lien upon real property situated in this state. The
17 tax shall be assessed and collected as provided by this
18 act.

19

20 (b) Intangible personal property shall have a taxable
21 situs in this state when it is owned, managed or controlled
22 by any person domiciled in this state on January 1 of the
23 tax year. The intangible personal property shall be subject
24 to annual taxation as provided by this act, unless the

1 person who owns, manages or controls the property is
2 specifically exempt or unless the property is specifically
3 exempt.

4

5 (c) All intangible personal property shall be subject
6 to the annual tax at its fair market value as of January 1
7 of each year. The property shall be valued in the following
8 manner:

9

10 (i) Shares of stock of corporations, or any
11 interest of a limited partner in any limited partnership,
12 regularly listed on any public stock exchange or regularly
13 traded over-the-counter shall be valued at their closing
14 prices on the last business day of the previous calendar
15 year;

16

17 (ii) Shares or units of regulated investment
18 companies, including mutual funds and money market funds
19 organized as business trusts or incorporated companies,
20 shall be valued at the offering price of such shares on the
21 last business day of the previous calendar year, unless
22 such shares or units are exempt under the provisions of
23 W.S. 39-12-205;

24

1 (iii) Bonds regularly listed on any public stock
2 exchange or regularly traded over-the-counter shall be
3 valued at their closing bid prices on the last business day
4 of the previous calendar year;

5

6 (iv) Shares of stocks, bonds or similar
7 instruments of corporations not listed on any public stock
8 exchange or not regularly traded over-the-counter shall be
9 valued as of January 1 of each year on the basis of those
10 factors customarily considered in determining fair market
11 value;

12

13 (v) Accounts receivable shall be valued at their
14 face value as of January 1 of each year, less a reasonable
15 allowance for uncollectible accounts;

16

17 (vi) All notes and other obligations shall have
18 a value equal to their unpaid balance as of January 1 of
19 each year, unless the taxpayer can establish a lesser value
20 upon proof satisfactory to the county assessor;

21

22 (vii) All other forms of intangible personal
23 property shall be valued on the basis of those factors
24 customarily considered in determining fair market value.

1

2 (d) The trustee of a trust with a situs in this state
3 shall be primarily responsible for the listing and payment
4 of the tax imposed by this act. Nothing herein shall
5 prevent any beneficiary of the trust to individually list
6 and pay any tax due on his equitable shares of the trust's
7 intangible personal property. No tax shall be collected
8 twice on the same property.

9

10 (e) Each Wyoming resident with a beneficial interest
11 in a foreign trust as defined by W.S. 39-12-201(b)(i) shall
12 be responsible for the listing and payment of any tax due
13 on the beneficiary's equitable shares of the trust's
14 intangible personal property.

15

16 (f) The personal representative of any estate with a
17 taxable situs in this state shall be primarily responsible
18 for the listing and payment of any tax due on the estate's
19 intangible personal property. Nothing herein shall prevent
20 any heir or devisee of the estate to individually list and
21 pay any tax due on his equitable shares of the estate's
22 intangible personal property.

23

1 (g) The guardian of the property of any incompetent
2 person resident in this state shall list and pay any tax
3 due on the incompetent's intangible personal property with
4 a taxable situs in this state. The custodian of a minor
5 resident in this state under a gifts to minors or similar
6 act shall list and pay any tax due on the minor's
7 intangible personal property with a taxable situs in this
8 state.

9

10 (h) If any agent has control or management of
11 intangible personal property, the principal shall be
12 primarily responsible to list and pay any tax due on the
13 property, but the agent shall do so if the principal fails
14 to list and pay the tax.

15

16 **39-12-204. Taxation rate.**

17

18 An annual tax of two (2) mills shall be imposed on each
19 dollar of the just valuation of all intangible personal
20 property subject to the tax as specified in W.S. 39-12-203.

21

22 **39-12-205. Exemptions.**

23

1 (a) Intangible personal property which is owned by
2 the United States government, the state or any of its
3 political subdivisions or municipalities shall be exempt
4 from the taxation imposed by this act.

5

6 (b) Intangible personal property which is owned by a
7 nonprofit religious, nonprofit education or nonprofit
8 charitable institution shall be exempt from the taxation
9 imposed by this act.

10

11 (c) The following intangible personal property shall
12 be exempt from the tax imposed by this act:

13

14 (i) Money;

15

16 (ii) Franchises;

17

18 (iii) Any interest as a partner in a
19 partnership, either general or limited, other than any
20 interest as a limited partner in a limited partnership
21 registered with the federal securities and exchange
22 commission pursuant to the Securities Act of 1933, as
23 amended;

24

1 (iv) Notes, bonds, and other obligations issued
2 by the state of Wyoming or its subdivisions, counties,
3 municipalities, and other taxing districts, or by the
4 United States government and its agencies;

5

6 (v) Intangible personal property held in trust
7 pursuant to any stock bonus, pension, or profit-sharing
8 plan or any individual retirement account which is
9 qualified under section 401 or section 408 of the United
10 States Internal Revenue Code, 26 U.S.C. § 401 or 408;

11

12 (vi) Notes and other obligations, except bonds,
13 to the extent that such notes and obligations are secured
14 by mortgage, deed of trust or other lien upon real
15 property;

16

17 (vii) The assets of a corporation registered
18 under the Investment Company Act of 1940, 15 U.S.C. § 80a-1
19 et seq.;

20

21 (viii) Units of a unit investment trust
22 organized under an agreement or declaration of trust and
23 registered under the Investment Company Act of 1940, as

1 amended, whose portfolio of assets consists solely of
2 assets exempt under this section.

3

4 (d) No person shall be required to pay the annual tax
5 in any year when the fair market value of the intangible
6 personal property, after exemptions, is less than one
7 million dollars (\$1,000,000.00). In such case, an annual
8 return is not required unless the taxpayer is an agent or
9 fiduciary of whom the department requires an informational
10 return.

11

12 **39-12-206. Licenses; permits.**

13

14 There are no specific applicable provisions for licenses and
15 permits for this act.

16

17 **39-12-207. Compliance; collection procedures.**

18

19 (a) A return mailed to the department shall be
20 considered timely filed if it bears a postmark no later
21 than the due date. An annual intangible tax return shall
22 be filed with the department by every person, regardless of
23 domicile, who on January 1 owns, controls or manages
24 intangible personal property which has a taxable situs in

1 this state. For purposes of this act, "control" or
2 "manage" does not include any ministerial function or any
3 processing activity. The return shall be due on June 30 of
4 each year. The return shall list separately the character,
5 description and just valuation of all such property. Any
6 agent or fiduciary shall report for each person for whom
7 they hold intangible personal property if the fair market
8 value of the intangible personal property, after
9 exemptions, is one million dollars (\$1,000,000.00) or more.

10

11 (b) Payment of the tax shall be made to the
12 department upon filing of the return required by this
13 section. A discount for early payment of the annual tax
14 shall be allowed as follows:

15

16 (i) For payment on or before the last day of
17 February, four percent (4%);

18

19 (ii) For payment on or before March 31, three
20 percent (3%);

21

22 (iii) For payment on or before April 30, two
23 percent (2%); and

24

1 (iv) For payment after April 30 but on or before
2 May 31, one percent (1%).

3

4 (c) The annual tax on intangible personal property
5 shall be due and payable on June 30 of each year.

6

7 **39-12-208. Enforcement.**

8

9 Failure to comply with the provisions of this act shall
10 constitute a misdemeanor punishable by a fine of not to
11 exceed one thousand dollars (\$1,000.00), a jail sentence of
12 not to exceed six (6) months, or both.

13

14 **39-12-209. Taxpayer remedies.**

15

16 (a) Interpretation requests. There are no specific
17 applicable provisions for interpretation requests for this
18 act.

19

20 (b) Appeals. The following shall apply:

21

22 (i) Any person aggrieved by any final
23 administrative decision of the department may appeal to the
24 board. Appeals shall be made in a timely manner as

1 provided by rules and regulations of the board by filing
2 with the board a notice of appeal specifying the grounds
3 therefor. The department shall, within a timely manner as
4 specified by board rules and regulations, transmit to the
5 board the complete record of the action from which the
6 appeal is taken;

7

8 (ii) Any person including the state of Wyoming
9 aggrieved by any order issued by the board may appeal the
10 decision of the board to the district court of the county
11 in which the taxpayer resides.

12

13 (c) Refunds. The following shall apply:

14

15 (i) Within one (1) year following an illegal
16 assessment, levy or collection of taxes an action may be
17 filed in district court to enjoin the illegal assessment,
18 levy or collection. The action shall be against the
19 department of revenue;

20

21 (ii) If any person pays any tax, or portion
22 thereof, found to have been erroneous or illegal, the
23 department shall refund the erroneous or illegal payment to
24 the taxpayer.

1

2 (d) Credits. There are no specific applicable
3 provisions for credits for this act.

4

5 (e) Redemption. There are no specific applicable
6 provisions for redemption for this act.

7

8 (f) Escrow. The following shall apply:

9

10 (i) If taxes are paid under protest to the
11 extent of and due to an appeal pending before the state
12 board of equalization or any court of competent
13 jurisdiction, the state treasurer shall deposit that
14 protested amount under appeal in a separate interest
15 bearing escrow account and withhold distribution until a
16 final decision on the appeal has been rendered by the state
17 board of equalization or the court. To the extent the
18 taxpayer prevails in the appeal, the state treasurer shall
19 refund that amount under appeal, plus interest earned
20 thereon, to the taxpayer within thirty (30) days from the
21 day the final decision is rendered. If the taxpayer pays to
22 the state an amount in excess of the protested amount under
23 appeal, the excess shall be distributed as provided by law.

24

1 **39-12-210. Statute of limitations.**

2

3 There are no specific applicable provisions for a statute of
4 limitations for this act.

5

6 **39-12-211. Distribution.**

7

8 All revenue received and collected by the department under
9 this act shall be transferred to the state treasurer, who
10 shall deposit the revenue into the general fund.

11

12 **Section 2.** W.S. 39-11-105(a)(xxix) and 39-13-104(a)
13 by creating a new paragraph (v) are amended to read:

14

15 **39-11-105. Exemptions enumerated.**

16

17 (a) The following property is exempt from property
18 taxation:

19

20 (xxix) Intangible personal property except as
21 specified in W.S. 39-13-103(b)(xi) and unless specifically
22 taxed pursuant to W.S. 39-12-201 through 39-12-211;

23

24 **39-13-104. Authorized mill levies.**

1

2 (a) Authorized mill levies. There shall be annually
3 levied and assessed upon the taxable value of property
4 within Wyoming the following state taxes when applicable:

5

6 (v) Two (2) mills upon intangible personal
7 property as provided by W.S. 39-12-201 through 39-12-211.

8

9 **Section 3.** This act shall apply to all intangible
10 personal property which has a taxable situs in this state
11 on or after January 1, 2004. No tax shall be collected by
12 the department of revenue until the 2004 calendar year.
13 The department shall promulgate rules and regulations to
14 implement this act on or before July 1, 2003.

15

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

20

21

(END)