HOUSE BILL NO. HB0019

Sales from remote sellers.
Sponsored by: Joint Revenue Interim Committee

A BILL

for

AN ACT relating to sales tax; providing for collection of sales tax from remote sellers as specified; providing for a declaratory judgment action; providing an injunction during the pendency of the action; limiting liability for payment of the sales tax; implementing related provisions; specifying applicability; and providing for an effective date.

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

Section 1. W.S. 39-15-501 is created to read:

ARTICLE 5

SALES FROM REMOTE SELLERS

(a) Notwithstanding any other provision of law, any seller of tangible personal property, admissions or services which are subject to taxation under chapter 15 or 16 of this title who does not have a physical presence in this state shall remit sales tax and follow all applicable procedures and requirements of this chapter as if the seller had a physical presence in this state once the seller meets either of the following requirements for the current calendar year or the immediately preceding calendar year:

(i) The seller's gross revenue from the sale of tangible personal property, admissions or services delivered into this state exceeds one hundred thousand dollars ($100,000.00); or

(ii) The seller sold tangible personal property, admissions or services delivered into this state in two hundred (200) or more separate transactions.

(b) Notwithstanding any other provision of law, the department may bring an action in this state to obtain a
declaratory judgment that the obligation of the seller to
remit sales tax under subsection (a) of this section is
applicable and valid under state and federal law.

(c) Upon the filing of an action for declaratory
judgment under subsection (b) of this section, the court
shall grant an injunction during the pendency of the action
prohibiting the department or any other state entity from
enforcing the obligation in subsection (a) of this section
against any seller who is a party to the action who does
not affirmatively consent or otherwise remit sales tax on a
voluntary basis. No injunction shall be granted under this
subsection if there is a previous judgment from a court of
record in this state in a previous judgment against the
seller who is a party to the action establishing the
validity of the obligation under subsection (a) of this
section.

(d) If a court has entered a judgment against a
seller or otherwise lifted or dissolved an injunction under
this section, the department shall assess and apply the
obligation under subsection (a) of this section from the
date the judgment is entered or the injunction is lifted
with respect to that seller.

(e) A seller complying with this section voluntarily
or pursuant to an action brought under this section may
seek a recovery of taxes, penalties or interest by
following the procedures established in this chapter. No
claim for a refund or recovery of taxes, penalties or
interest shall be granted on the basis that the seller
lacked a physical presence in this state and complied with
this section voluntarily while under the protection of an
injunction granted under this section. Nothing in this
subsection shall limit the ability of a seller to obtain a
refund or recovery of taxes, penalties or interest for any
other reason including mistake of fact or a miscalculation
of the applicable tax.

(f) No seller who remits sales tax voluntarily or
otherwise under this section shall be liable to any person
who claims that the sales tax has been over collected if
any provision of this act is later deemed unlawful.
(g) Nothing in this section shall be construed to affect the obligation of any purchaser in this state to remit use tax for any applicable transaction.

Section 2. W.S. 39-15-101(a)(xv) is amended to read:


(a) As used in this article:

(xv) "Vendor" means any person engaged in the business of selling at retail or wholesale tangible personal property, admissions or services which are subject to taxation under this article. "Vendor" includes a vehicle dealer as defined by W.S. 31-16-101(a)(xviii) and a remote seller to the extent provided by W.S. 39-15-501;

Section 3. This act shall not apply to any tax liability arising prior to the effective date of this act.
Section 4. 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)