

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Amortization of sales and use tax.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to sales and use taxes; providing for
2 amortized payments of sales and use taxes for projects with
3 specified expenditures; providing for distribution of
4 payments; and providing for an effective date.

5

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

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8 **Section 1.** W.S. 39-15-107(b) by creating a new
9 paragraph (xii), 39-15-111 by creating a new subsection
10 (r), 39-16-107(b) by creating a new paragraph (x) and
11 39-16-111 by creating a new subsection (p) are amended to
12 read:

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39-15-107. Compliance; collection procedures.

(b) Payment. The following shall apply:

STAFF COMMENT

The Working Group identified the need to include language in paragraph (xii) below that addresses interest rates to be charged for the amortization contemplated in this bill draft. Sample language follows and is highlighted:

(xii) If on or after July 1, 2021 any taxpayer develops a project to be completed in Wyoming that is reasonably anticipated to have expenditures subject to Wyoming sales and use tax over the first two (2) years of construction and operation of the project in excess of one million dollars (\$1,000,000.00), the taxpayer may apply to the department to amortize the sales and use taxes due over the expected life of the project not to exceed a period of twenty (20) years. The department shall establish amortization schedules, fixed interest rates tied to projected inflation rates and terms and conditions for each project that is approved for amortization under this paragraph. [...]

The Working Group identified the following additional considerations for the Committee regarding interest rates:

- Whether a specific minimum rate should be specified in statute, and if so, what that rate should be.
- Whether the interest rate should be tied to or reference inflation, and if so, whether a specific inflation rate or index should be specified.

1 (xii) If on or after July 1, 2021 any taxpayer
2 develops a project to be completed in Wyoming that is
3 reasonably anticipated to have expenditures subject to
4 Wyoming sales and use tax over the first two (2) years of
5 construction and operation of the project in excess of one
6 million dollars (\$1,000,000.00), the taxpayer may apply to
7 the department to amortize the sales and use taxes due over
8 the expected life of the project not to exceed a period of
9 twenty (20) years. The department shall establish
10 amortization schedules, terms and conditions for each
11 project that is approved for amortization under this
12 paragraph. The department shall establish and publish not
13 less than once annually fixed terms and rates that are
14 available for taxpayers to amortize the sales and use taxes
15 as provided by this paragraph. The amortization agreement
16 shall include a lien upon the property of the project for
17 which sales and use taxes are amortized under this
18 paragraph. The lien shall be paramount and superior to any
19 other lien or encumbrance created before or after. A
20 failure to pay pursuant to the terms and conditions
21 established by the department shall subject the taxpayer to
22 all enforcement provisions under this article. The
23 department shall adopt rules necessary to administer the

1 amortization program under this paragraph including
2 requiring full payment of any outstanding amount of
3 payments within thirty (30) days if the taxpayer
4 discontinues his business or discontinues the project. If a
5 taxpayer is approved for amortization of sales and use tax
6 payments under this paragraph, no vendor shall be liable
7 for returns, reports or payment of taxes related to the
8 applicable project under this section. As used in this
9 paragraph, "project" means any land, building or other
10 improvement and all real and personal property including
11 machinery and equipment suitable for:

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13 (A) Manufacturing, processing or assembling
14 agricultural or manufactured products;

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16 (B) Storing, warehousing, distributing or
17 selling agricultural, mining or industrial products or any
18 related processes including research and development;

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20 (C) Health care including any facility used
21 or occupied by any person for providing services in any
22 home for the elderly, any nursing home, rest home or

1 facility providing living space for the developmentally
2 disabled or any person sixty (60) years of age or older;

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4 (D) Airports, parking facilities or storage
5 or training facilities directly related to any other
6 facility specified under this paragraph;

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8 (E) Industrial park facilities;

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10 (F) Sewage or solid waste disposal
11 facilities;

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13 (G) Facilities furnishing electric energy,
14 gas or water;

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16 (H) Any other project which could be
17 financed by a municipality or county pursuant to the
18 definition of project under W.S. 15-1-701(a)(ii);

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20 (J) Secondary, tertiary and enhanced
21 mineral recovery projects.

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23 **39-15-111. Distribution.**

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2 (r) Revenues from amortized payments made for a
3 project that is approved for amortized payments under W.S.
4 39-15-107(b)(xii) shall be recognized as revenue during the
5 fiscal year the payments are made for accounting purposes.
6 Revenue collected from amortization payments shall be
7 distributed in accordance with subsection (b) of this
8 section.

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10 **39-16-107. Compliance; collection procedures.**

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12 (b) Payment. The following shall apply:

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14 (x) Payments of use taxes that are for a project
15 that has been approved for amortized payments under W.S.
16 39-15-107(b)(xii) shall be made in accordance with the
17 amortization schedule, terms and conditions established for
18 the project by the department pursuant to W.S.
19 39-15-107(b)(xii).

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21 **39-16-111. Distribution.**

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1 (p) Revenues from amortized payments made for a
2 project that is approved for amortized payments as provided
3 in W.S. 39-16-107(b)(x) shall be recognized as revenue
4 during the fiscal year the payments are made for accounting
5 purposes. Revenue collected from amortization payments
6 shall be distributed in accordance with subsection (b) of
7 this section.

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9 **Section 2.** This act is effective immediately upon
10 completion of all acts necessary for a bill to become law
11 as provided by Article 4, Section 8 of the Wyoming
12 Constitution.

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14

(END)