

Wyoming Legislature –
Select Committee on Tribal Relations

State Internet Sales Tax Collected on Purchases from
the Reservation

August 29, 2022 – Riverton, Wyoming



Director: Brenda L. Henson

Excise Tax Administrator: Bret Fanning

Presentation Overview

1. What Sales are Taxable in Wyoming?
2. What Are a Wyoming Vendor's Sales Tax Responsibilities?
3. How Do Wyoming Vendors Remit Sales Tax?
4. How Do Wyoming Sales Tax Exemptions Work?
5. What Does a Streamlined Exemption Certificate Look Like?
6. How do You Fill out a Streamlined Exemption Certificate?
7. Are Tribal Members Exempt from Wyoming Sales Tax?
8. What Happens if a Tribal Member Pays Wyoming Sales Tax?
9. How is the Wyoming Sales Tax Distributed?

1. What Sales are Taxable in Wyoming? (specifically related to online purchasing)

- Retail sales of tangible personal property - W.S. 39-15-103(a)(i)(A)
- Rent or lease of tangible personal property - W.S. 39-15-103(a)(i)(B)
- Services to tangible personal property - W.S. 39-15-103(a)(i)(J)
- Computer hardware and associated hardware media - W.S. 39-15-103(a)(i)(O)
- Specified Digital Products (with permanent use) - W.S. 39-15-103(a)(i)(P)

- *Please remember there are corresponding use tax statutes found in W.S. 39-16-103*

2. What Are a Wyoming Vendor's Sales Tax Responsibilities?

- Partnership - Wyoming Department of Revenue and the people of Wyoming
- Trust system - Vendor's responsibility to collect and report correct amount of tax
- Online remote sellers and marketplace facilitators - W.S. 39-15-501 and 39-15-502

- Wyoming Vendor's Responsibilities
 - Know what is taxable
 - Know the correct tax rate
 - Know how to remit tax
 - Know what supporting documentation to keep

3. How Do Wyoming Vendors Remit Sales Tax?

- DOR Form 41-1
 - Electronic filing and payment options are available (via our WYIFS portal)
- Filing frequency
- Filing due date

- Vendors on the Wind River Indian Reservation also required to license - WY Dept. of Rev. Rules; Chap. 2, Sec. 4(c)

Form 41-1 Wyoming Sales & Use Tax
Return for Licensed Vendors

Wyoming Department of Revenue
122 W 25th St, Suite E301
Cheyenne, WY 82002

For Dept Use Only

Please use black ink to complete form

SST ID: _____ Ownership RID: _____
 License Number: _____
 Report Period: _____ through _____
 Return Due Date: _____
 Check here if this is an amended return
 Check here if no sales or taxes to report

Name & Address

Part I - Summary - Do not use dollar signs, commas or periods (Dollars) (Cents)

Line A. Gross Sales & Services (Total Sales)

Line B. Total Deductions (Sales & services which are exempt or not taxed)

Line C. Net Taxable Sales & Services (Line A minus Line B)

Line D. Jurisdictional Taxes Due (Part II, Line M)

Line E. Lodging Tax Due (Complete Part IV supplement if any lodging taxes due, otherwise enter zero)

Line F. Total Taxes Due (Line D plus Line E)

Line G. Vendor Compensation Credit

Line H. Penalties, Interest or Dept. of Revenue Billing (See instructions)

Line I. Credit Memo from Dept. of Revenue (See instructions)

Line J. Total Amount Due (Subtract Line G from F, then Add Line H and Subtract Line I)

Part II - Jurisdictional Tax Information

| (Col 1) Jurisdiction Name Code | (Col 2) Jurisdiction Digit Code | (Col 3) Tax Rate % in Effect | (Col 4) Sales Tax Due | (Col 5) Use Tax Due | (Col 6) Excess Tax Due | (Col 7) Net Tax Due (Add Columns 4, 5, & 6) |
|--------------------------------------|---------------------------------------|------------------------------------|--------------------------|------------------------|------------------------------|---|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Line K. Total Net Tax (Add totals in Column 7)

Total Number Supplemental Pages Included **Line L.** Sum of Line 1 results from all Part III Supplemental Pages

Line M. Total Jurisdictional Tax Due (Add Lines K & L. Enter results here & on Part I, Line D)

Please attach an additional page with any changes pertaining to: address, ownership or contact information changes.

Signature: _____ Date: _____
 I declare, under penalty of perjury, that I have examined this return and to the best of my knowledge and belief it is correct and complete. Title: _____
 Date business permanently closed: _____ Phone Number: _____
 Name (Printed): _____

Revised 1.23.2020

4. How Do Wyoming Sales Tax Exemptions Work?

- What is a Wyoming sales tax exemption?
 - Discussion topic - Sales which the state of Wyoming is prohibited from taxing under the laws or constitutions of the United States or Wyoming. W.S. 39-15-105(a)(i)(A)
- What's the difference between something that is just nontaxable versus something that is exempt?
- What documentation is needed for a purchaser to claim an exemption?

5. What Does a Streamlined Exemption Certificate Look Like?

- Wyoming is a member of the Streamlined Sales Tax Governing Board - W.S. 39-15-401
 - Wyoming will generally submit any legislative proposals to Streamline for approval
- Wyoming is a good faith state for sales taxation. What does this mean?
- Wyoming vendors should only accept two documents to sell tangible personal property without tax:
 - Properly completed exemption certificate (applicable to our discussion)
 - Direct pay permit

Streamlined Sales Tax Governing Board, Inc.

Streamlined Sales Tax Certificate of Exemption
Do not send this form to the Streamlined Sales Tax Governing Board. Send the completed form to the seller and keep a copy for your records.

This is a multi-state form for use in the states listed. Not all states allow all exemptions listed on this form. The purchaser is responsible for ensuring it is eligible for the exemption in the state it is claiming the tax exemption from. Check with the state for exemption information and requirements. The purchaser is liable for any tax and interest, and possible civil and criminal penalties imposed by the state, if the purchaser is not eligible to claim this exemption.

1. Check if this certificate is for a single purchase. Enter the related invoice/purchase order # _____
2.

| | |
|--|---------------------|
| Print or type | A. Purchaser's name |
| B. Business address | City |
| | State |
| | Country |
| | Zip code |
| C. Name of seller from whom you are purchasing, leasing or renting | |
| D. Seller's address | City |
| | State |
| | Country |
| | Zip code |
3. **Purchaser's type of business.** Check the number that best describes your business.

| | | |
|--|--|--|
| <input type="checkbox"/> 01 Accommodation and food services | <input type="checkbox"/> 08 Real estate | <input type="checkbox"/> 15 Professional services |
| <input type="checkbox"/> 02 Agriculture, forestry, fishing, hunting | <input type="checkbox"/> 09 Rental and leasing | <input type="checkbox"/> 16 Education and health-care services |
| <input type="checkbox"/> 03 Construction | <input type="checkbox"/> 10 Retail trade | <input type="checkbox"/> 17 Nonprofit organization |
| <input type="checkbox"/> 04 Finance and insurance | <input type="checkbox"/> 11 Transportation and warehousing | <input type="checkbox"/> 18 Government |
| <input type="checkbox"/> 05 Information, publishing and communications | <input type="checkbox"/> 12 Utilities | <input type="checkbox"/> 19 Not a business |
| <input type="checkbox"/> 06 Manufacturing | <input type="checkbox"/> 13 Wholesale trade | <input type="checkbox"/> 20 Other (explain) |
| <input type="checkbox"/> 07 Mining | <input type="checkbox"/> 14 Business services | |
4. **Reason for exemption.** Check the letter that identifies the reason for the exemption.

| | |
|---|--|
| <input type="checkbox"/> A Federal government (Department) * | <input type="checkbox"/> H Agricultural Production * |
| <input type="checkbox"/> B State or local government (Name) * | <input type="checkbox"/> I Industrial production/manufacturing * |
| <input type="checkbox"/> C Tribal government (Name) * | <input type="checkbox"/> J Direct pay permit * |
| <input type="checkbox"/> D Foreign diplomat # _____ | <input type="checkbox"/> K Direct Mail * |
| <input type="checkbox"/> E Charitable organization * | <input type="checkbox"/> L Other (Explain) _____ |
| <input type="checkbox"/> F Religious organization * | <input type="checkbox"/> M Educational Organization * |
| <input type="checkbox"/> G Resale * | |

* see Instructions on back (page 2)
5. **Identification (ID) number:** Enter the ID number as required in the instructions for each state in which you are claiming an exemption. If claiming multiple exemption reasons, enter the letters identifying each reason as listed in Section 4 for each state.

| | ID number | State/Country | Reason | ID number | State/Country | Reason |
|----|-----------|---------------|--------|-----------|---------------|--------|
| AR | _____ | _____ | _____ | NV | _____ | _____ |
| GA | _____ | _____ | _____ | OH | _____ | _____ |
| IA | _____ | _____ | _____ | OK | _____ | _____ |
| IN | _____ | _____ | _____ | RI | _____ | _____ |
| KS | _____ | _____ | _____ | SD | _____ | _____ |
| KY | _____ | _____ | _____ | TN | _____ | _____ |
| MI | _____ | _____ | _____ | UT | _____ | _____ |
| MN | _____ | _____ | _____ | VT | _____ | _____ |
| NC | _____ | _____ | _____ | WA | _____ | _____ |
| ND | _____ | _____ | _____ | WI | _____ | _____ |
| NE | _____ | _____ | _____ | WV | _____ | _____ |
| NJ | _____ | _____ | _____ | WY | _____ | _____ |
6. *I declare that the information on this certificate is correct and complete to the best of my knowledge and belief.*

| | | | |
|-----------------------------------|------------|-------|-------|
| Signature of authorized purchaser | Print name | Title | Date |
| _____ | _____ | _____ | _____ |

SSTGB Form F0003 Exemption Certificate (Revised 12/21/2021)

6. How Do You Fill out an Exemption Certificate?

(specifically related to online purchasing)

- Section 1: Single or reoccurring purchase
- Section 2: Purchaser and seller information
- Section 3: Type of business
 - Wyoming's guidance has consistently been for enrolled tribal members to select "18 Government"
- Section 4: Reason for exemption
 - Wyoming's guidance has consistently been for enrolled tribal members to enter their tribe name in "C Tribal government (Name)"
- Section 5: Identification number
 - Wyoming's guidance has consistently been for enrolled tribal members to either use a tribal ID #, DOR sales tax #, FEIN #, or driver's license number
- Section 6: Signature line
- *Most online websites have areas to provide tax exemption documentation prior to purchase.*

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Governing Board, Inc.

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1. Check if this certificate is for a single purchase. Enter the related invoice/purchase order # _____
2.

| | |
|---------------|--|
| Print or type | A. Purchaser's name |
| | B. Business address City State Country Zip code |
| | C. Name of seller from whom you are purchasing, leasing or renting |
| | D. Seller's address City State Country Zip code |
3. **Purchaser's type of business.** Check the number that best describes your business.

| | | |
|--|--|--|
| <input type="checkbox"/> 01 Accommodation and food services | <input type="checkbox"/> 08 Real estate | <input type="checkbox"/> 15 Professional services |
| <input type="checkbox"/> 02 Agriculture, forestry, fishing, hunting | <input type="checkbox"/> 09 Rental and leasing | <input type="checkbox"/> 16 Education and health-care services |
| <input type="checkbox"/> 03 Construction | <input type="checkbox"/> 10 Retail trade | <input type="checkbox"/> 17 Nonprofit organization |
| <input type="checkbox"/> 04 Finance and insurance | <input type="checkbox"/> 11 Transportation and warehousing | <input type="checkbox"/> 18 Government |
| <input type="checkbox"/> 05 Information, publishing and communications | <input type="checkbox"/> 12 Utilities | <input type="checkbox"/> 19 Not a business |
| <input type="checkbox"/> 06 Manufacturing | <input type="checkbox"/> 13 Wholesale trade | <input type="checkbox"/> 20 Other (explain) _____ |
| <input type="checkbox"/> 07 Mining | <input type="checkbox"/> 14 Business services | |
4. **Reason for exemption.** Check the letter that identifies the reason for the exemption.

| | |
|---|--|
| <input type="checkbox"/> A Federal government (Department) * _____ | <input type="checkbox"/> H Agricultural Production * |
| <input type="checkbox"/> B State or local government (Name) * _____ | <input type="checkbox"/> I Industrial production/manufacturing * |
| <input type="checkbox"/> C Tribal government (Name) * _____ | <input type="checkbox"/> J Direct pay permit * |
| <input type="checkbox"/> D Foreign diplomat # _____ | <input type="checkbox"/> K Direct Mail * _____ |
| <input type="checkbox"/> E Charitable organization * | <input type="checkbox"/> L Other (Explain) _____ |
| <input type="checkbox"/> F Religious organization * | <input type="checkbox"/> M Educational Organization * |
| <input type="checkbox"/> G Resale * | |

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5. **Identification (ID) number:** Enter the ID number as required in the instructions for each state in which you are claiming an exemption. If claiming multiple exemption reasons, enter the letters identifying each reason as listed in Section 4 for each state.

| ID number | State/Country | Reason | ID number | State/Country | Reason |
|-----------|---------------|--------|-----------|---------------|--------|
| AR | | | NV | | |
| GA | | | OH | | |
| IA | | | OK | | |
| IN | | | RI | | |
| KS | | | SD | | |
| KY | | | TN | | |
| MI | | | UT | | |
| MN | | | VT | | |
| NC | | | WA | | |
| ND | | | WI | | |
| NE | | | WV | | |
| NJ | | | WY | | |
6. *I declare that the information on this certificate is correct and complete to the best of my knowledge and belief.*

| | | | |
|-----------------------------------|------------|-------|-------|
| Signature of authorized purchaser | Print name | Title | Date |
| _____ | _____ | _____ | _____ |

SSTGB Form F0003 Exemption Certificate (Revised 12/21/2021)

7. Are Tribal Members Exempt from Wyoming Sales Tax?

- The answer is yes; if two conditions are met. Once both conditions are satisfied, the purchaser can provide the vendor with a Streamlined exemption certificate.
 1. Proof of status as an enrolled member of one of the two Wyoming tribes;
 2. The customer receives possession of their purchase on the Wind River Indian Reservation.

- Wait, I thought there weren't any sales taxes on reservations? Over the years, there have been several U.S. Supreme Court cases on the topic. These court cases have led to many states adopting the same tribal guidance as Wyoming. What about taxation with our national parks?

8. What Happens if a Tribal Member Pays Wyoming Sales Tax?

-
- The Wyoming sales tax may be due - an enrolled tribal member purchases tangible personal property off of the Wind River Indian Reservation.
 - The tax is not due – an enrolled tribal member purchases tangible personal property on the Wind River Indian Reservation with an exemption certificate provided to the vendor.
 - What happens if an enrolled tribal member purchases an item online and has it shipped to the Wind River Indian Reservation, but did not provide the vendor with an exemption certificate?
 - Tax should be collected because the vendor doesn't know not to charge tax. Any collected Wyoming sales tax should be remitted to the Wyoming Department of Revenue, even if collected in error. - W.S. 39-15-109
 - Erroneously collected sales tax happens more than one might be aware. What taxpayer remedies are available? - W.S. 39-15-109(a)(ii)

9. How is Wyoming Sales Tax Distributed?

➤ Sales tax

- 69% to state general fund
- ✓ 1% to state administrative expenses
- ✓ Remaining share to counties, cities, and towns

➤ There is currently no sales tax distributed to the two Wyoming tribes. If any tax is collected on the Wind River Indian Reservation, it will be distributed as outlined above.

Wyoming Department of Revenue

Contact Information

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- Excise Tax Administrator – Bret Fanning
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<https://revenue.wyo.gov/>

dor@wyo.gov – General account inquiries

dor_taxability@wyo.gov – Sales taxability questions