



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <https://rules.wyo.gov>

Revised August 2023

1. General Information

a. Agency/Board Name* Wyoming Department of Revenue		
b. Agency/Board Address 122 West 25th Street, Suite E301	c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Bret Fanning	f. Agency Liaison Telephone Number (307) 777-5220	
g. Agency Liaison Email Address bret.fanning@wyo.gov		
h. Date of Public Notice 05/01/2024	i. Comment Period End Date 06/21/2024	
j. Public Comment URL or Email Address: bret.fanning@wyo.gov		
k. Program Excise Tax		
Amended Program Name (if applicable):		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. If the rules are new, please provide the Legislative Chapter Number and Year Enacted: Chapter: 67 Year: 2024

3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.

Chapter Number: 2	Chapter Name: Sales and Use Tax	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:

Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

(Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

(Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	Bret Fanning
<i>Title of Authorized Individual</i>	Excise Tax Administrator
<i>Date of Authorization</i>	04/16/2024

WYOMING DEPARTMENT OF REVENUE

Statement of Principal Reasons for Adoption of Regular Rules

The following rationale is presented for the changes to the Wyoming Department of Revenue, Rules and Regulations, **Chapter 2, “Sales and Use Tax”**.

The Wyoming Department of Revenue, Excise Tax Division, seeks to amend our Chapter 2 Rules and Regulations. The Department is looking to update our Chapter 2 Rules, primarily based upon the passage of HB 197/HEA 38 (2024). These Rules updates will provide clarity to our Wyoming vendors and taxpayers based upon the new legislation.

1. Section 2(r) – Clarifies our definition of “occasional sale” based upon HB 197/HEA 38. In the new Section 4(h) below (#5 Statement of Principal Reasons), we outline those persons with occasional sales are not required to collect sales tax. The intent of the legislation was that residential garage sales or an impromptu lemonade stand aren’t required to collect sales tax, but vendors at organized events still have a sales tax collection requirement.
2. Section 2(t) – Adds a definition of “pipeline” to help clarify which companies can use the updated exemption language based upon the passage of HB 197/HEA 38. Adding Section 2(t) results in the re-numbering of the original Section 2(t) through original Section 2(aa).
3. Section 4(a) – This change reflects an update per the Streamlined Sales Tax Governing Board that non-nexus sellers no longer have to register in all member states. Those sellers can decide to register in all states, a few states, or just one state.
4. Section 4(f) – Adds the word “taxes” to clarify what the remote seller or marketplace facilitator is collecting and reporting.
5. Section 4(h) – In conjunction with #1 above, this rule clarifies that persons with occasional sales do not have to collect sales tax.
6. Section 7(j) – Clarifies that power or fuel used by railroads or pipelines (which “pipeline” is now defined by #2 above) is exempt if the entire transportation cost is charged to an unaffiliated business entity. This updated language is based upon the passage of HB 197/HEA 38.

7. Section 8(b) – Clarifies that the time for the Department to issue a refund starts once the Department has received all of the necessary information to make an informed decision based upon the updated language with HB 197/HEA 38.
8. Section 8(d) – Clarifies that the Department of Audit must agree to accept the audit referral for an audit engagement in order to toll the 90-day requirement for the Department of Revenue to approve or deny a refund request as per the updated language from HB 197/HEA38. If the Department of Audit decides not to conduct the requested audit, the Department of Revenue must still approve or deny the refund request within 90 days. Any denied refunds can still be appealed to the Wyoming State Board of Equalization.
9. Section 11(a) – Adds to the language to the pre-existing Department Rule based upon HB197/HEA 38. If the purchaser does not have a driver’s license or government-issued identification, then the Department will prescribe a form to use as documentation to determine where the sales tax is due. The update in HB 197/HEA 38 did not mention business entities, so this updated language adds a provision stating where the sales tax is due on motor vehicles purchased by businesses.

CHAPTER 2

SALES AND USE TAX

Section 1. Authority. This chapter is adopted under the authority of W.S. 39-11-102.

Section 2. Definitions.

(a) “Abandonment” means all work performed within a well site to cease producing oil and gas from a well when it becomes unprofitable including removal of production equipment, permanent sealing of the wellbore, and well site reclamation. Abandonment does not include temporary shut-ins of an oil or gas well. Work to shut-in oil or gas wells is taxable and is not an abandonment of a well site.

(b) “Activities sequentially required” means services in an oil or gas well site that occur in the following order: exploration, drilling, completion, production, maintenance, and abandonment of the well site. This order is maintained for taxability regardless of the chronological order of occurrences.

(c) “Agent” means any person acting under the authority of the vendor including, but not limited to, truckers, peddlers, canvassers, salespersons, representatives, employees, supervisors, distributors, delivery persons, or any other persons performing deliveries in this state.

(d) “Alcoholic beverage” means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume.

(e) “Assistive Device” means any item, piece of equipment, or product system used to increase, maintain, or improve the functional capabilities of an individual with a permanent disability. This includes, but is not limited to, computers used to replicate speech, wheelchair lifts and pedal extensions used to assist in mobility, and any other devices which allow the disabled person to lead a more normal lifestyle. These devices shall not include any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual.

(f) “Business entity” means and includes an individual, partnership, corporation, corporate division, joint stock company or any other association or entity, public or private, or separate business unit thereof.

(g) “Certified Automated System (CAS)” means software certified under the Streamlined Sales Tax Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(h) “Certified Service Provider (CSP)” means an agent certified under the Streamlined Sales Tax Agreement to perform all the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases.

(i) “Consideration” means recompense or payment which includes anything of value to the parties to a sale. Consideration is not limited to cash. Assumption of debt is a form of consideration.

(j) “Construction project” is the set of all agreements to perform repairs, improvements, alterations, or constructions which is to be done together on real property. When repair, alteration, improvement, or new construction agreements are contingent upon one another or are made dependent upon the happening of one another, such agreements shall be considered part of the same construction project. A construction project may consist of a single agreement to repair, alter, improve, or construct a single item of real property.

(k) “Consumer” means any person exercising any right of ownership over tangible personal property or taxable services or admissions unless the property, admissions, or services are purchased for resale in the normal course of business.

(l) “Dietary Supplement” means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in above that is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and is required to be labeled as a dietary supplement, identifiable by the “Supplemental Facts” box found on the label and as required pursuant to 21 C.F.R. § 101.36.

(ii) Dietary Supplements are not prepared food.

(m) “Drilling” means the act of boring a hole through which oil and/or gas may be produced or encountered in commercial quantities including, but not limited to, placement of the rig and setting up of the well site, boring of the hole, placement and cementing of casing to protect the aquifers, and removal of the rig upon attainment of the appropriate depth.

(n) “Fixtures” means articles of tangible personal property which are appurtenances to a building/structure and do not lose their identity as appurtenances, but due to the owner’s intentions, the fixtures become a permanent part of the real property. This may include, but is not limited to, lighting fixtures; plumbing fixtures; hot water heaters; furnaces; boilers; central heating units; elevators; hoists; burglar and fire alarms which are wired into the structure; central air conditioning and built-in refrigeration units; built-in ovens, ranges, and dishwashers; and wall-to-wall carpeting which is glued down or otherwise permanently attached to the floor of the structure.

(o) “Maintenance” means any and all work performed at the well site to maintain production of the oil or gas well. This work includes, but is not limited to, repairs made to equipment at the well site, the monitoring of activity at the well site, and all other activities to maintain production. This definition as stated applies only in taxation of oil or gas operations.

(p) “Native American” means any enrolled member of the Shoshone Tribe or the Northern Arapaho Tribe of the Wind River Indian Reservation.

(q) “Newspaper” means a publication that is printed on newsprint and is distributed daily, weekly, or at other intervals, and is used to disseminate news of a general character and of a general interest. This includes magazines, handbills, circulars, advertising flyers, sales catalogs, or other printed materials when they are distributed and sold as part of the newspaper.

(r) “Occasional Sale” means a separate event occurring four or fewer times in a calendar year by the same vendor. Occasional sale does not include sales of tangible personal property at an organized event with multiple vendors.

(s) “Permanent Disability” means a severe, chronic disability of an individual that is attributable to a mental or physical impairment or combination of mental and physical impairment; is likely to continue indefinitely; and results in substantial functional limitations in three or more of the following major life activities: self-care, receptive and expressive language learning, mobility, self-direction, capacity for independent living, and/or economic self-sufficiency.

(t) “Pipeline” means a system of connected lengths of large diameter pipes which are used to transport oil, natural gas, or other hydrocarbons over long distances under high pressure to eventual interstate or intrastate customer sales points. A pipeline does not include pipes, and other equipment, used as part of a gathering system which collects and moves oil, natural gas, or other hydrocarbons from well sites to either a central delivery point, initial storage tank, lease automatic custody transfer (LACT) unit, or to the inlet of an interstate or intrastate transmission pipeline.

(u) “Places of amusement, entertainment, recreation, games or athletic event” include any theater, hall, ballroom, park, grounds, outdoor facility, or similar facility used in whole or in part for any form of amusement, entertainment, recreation, games, or athletic event.

(v) “Principal Residence” as used in Section 11 means a person’s true, fixed, and permanent physical Wyoming address to which a person intends to return.

(w) “Production” means all work performed within a well site to produce an oil or gas well. Production begins with the first barrel of oil or the first MCF of gas for market and ends once the well is abandoned. This definition applies only in the taxation of oil or gas operations for sales and use tax purposes, but this term may be different from the beginning of the production casing phase.

(x) “Production Casing” means the series of steel pipe lengths, screwed or welded together through which oil and gas flows to the surface.

(y) “Purchaser” means a person to whom a sale of tangible personal property is made or to whom a service is furnished.

(z) “Recompletion” means any downhole operation in an existing oil or gas well that is conducted to establish production of an oil or gas well in any geological interval not currently completed or producing which has been approved as a recompletion by the Wyoming Oil and Gas Conservation Commission.

(aa) “Seller” means a person making sales, leases, or rentals of tangible personal property or services.

(bb) “Streamlined Sales Tax Agreement” means the agreement adopted pursuant to W.S. 39-15-403.

Section 3. Administrative Functions.

(a) Sales/Use Tax Rate. The time and place of sale shall determine the applicable tax rate, except for motor vehicles.

(i) Leased/Rented Tangible Personal Property. Any purchase option exercised at the end of the lease agreement is a separate transaction and shall be taxed as a separate sale where the transaction occurs.

(ii) For services involving periodic billings, tax rate increases shall apply to the first billing period starting on or after the effective date of the rate change. For tax rate decreases, the new rate shall apply to bills rendered on or after the effective date.

(b) Payments made for sales/use tax liabilities shall be applied in the following order: fees, interest, tax, and penalty. Payments shall be applied to the oldest debt first.

(c) In all cases, the burden of proof as to the point of delivery is upon the vendor. All delivery slips, freight bills, etc., shall be preserved for three (3) years along with all invoices and other business records.

(d) Corrections to Assessments. Sales/use tax assessments issued by the Department which are later found to be in error may be amended. The amendments do not change the date of the original assessment.

(e) The State of Wyoming shall provide and maintain a database of sales and use tax rates for all taxing jurisdictions within the boundaries of the state and a taxability matrix, which provides sellers with a listing of general product and service categories and the taxability of each item. For the identification of state and local jurisdictions, the state shall use Federal Information Processing Standards (FIPS) codes.

(f) The state shall relieve sellers, Certified Service Providers (CSPs), and sellers using a Certified Automated System (CAS) from liability to the state and local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller, CSP, or seller using a CAS relying on erroneous data provided by the state.

(g) Calculating the Tax. Rounding tax calculation shall be carried to the third decimal place, and shall be rounded to a whole cent using a method that rounds up to the next whole cent whenever the third decimal place is greater than four (4).

Section 4. Licensing.

(a) Non-nexus vendors that are participating in the Streamlined Sales Tax Agreement can be registered in all member states through use of the centralized registration process provided under the agreement. Under this process, a seller registering under the agreement will not pay a fee for registration or licensing for any state where there is no legal requirement to register. No written signature of the licensing seller will be required. An agent may register a seller under uniform procedures adopted by the Streamlined Sales Tax Governing Board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.

(b) Governmental Entities. The retail sale, lease, or rental of tangible personal property or taxable services by the State of Wyoming or its political subdivisions shall be subject to the sales/use tax. The governmental entity shall be considered a vendor and shall be licensed and collect tax on taxable transactions.

(c) Tribal Members. Sales or Leases on the Wind River Indian Reservation. Persons on the Wind River Reservation who are engaged in selling or leasing tangible personal property or providing services subject to the sales or use tax shall become licensed as vendors. Vendors shall comply with all reporting requirements as directed by the Department for sales or leases occurring on the Reservation to any person who is not an enrolled member of the Northern Arapaho or Eastern Shoshone Tribes.

(d) Multiple Business Locations. At the vendor's option, they may ask to have multiple locations under the same ownership consolidated so the tax for all locations can be filed on a single return.

(e) Transfer of License. Sales/use tax licenses shall not be transferable. If there is a change from one legal entity to another, the new entity shall apply for a new sales/use tax license under the new entity's legal name. Any such change shall be reported to the Department immediately. The license fee shall be imposed on each such change.

(f) Any vendors or remote sellers selling exclusively through a marketplace facilitator shall not be required to license with the Department as long as the marketplace facilitator is licensed to collect and report taxes to the Department.

(g) Simply having a registered agent, virtual office, or accounting firm in Wyoming does not automatically prompt a licensing requirement.

(h) Persons engaged in occasional sales shall not be required to collect sales tax.

Section 5. Reporting.

(a) Reporting Frequency. The Department shall assign vendors a filing frequency at the time of licensing. Filing frequency may be changed by the Department based on the volume of sales/use tax collected and other criteria as established in policy and procedure guidelines. Filing frequency assigned by the Department shall be monthly, quarterly, or annually.

(b) Reporting Forms. Vendors shall file sales/use tax data on sales/use tax returns provided by the Department or in other format or media as approved by the Department. Returns shall be rejected if not completed in accordance with the instructions provided. A vendor shall have fifteen (15) calendar days from the date of notification to submit a corrected report without incurring late filing penalties as long as the original report was filed on time.

(c) Due Date. Monthly filers shall submit returns and tax on or before the last day of the month following the month in which the Wyoming sales occurred; quarterly filers shall submit returns and tax on or before January 31, April 30, July 31, and October 31 of each calendar year; and annual filers shall submit returns on or before January 31 of each calendar year. If a due date falls on a weekend or federal or Wyoming state holiday, the next business day serves as the new due date.

(i) Consumers, including contractors, remitting sales or use tax not paid to vendors shall remit the tax on or before the last day of the month following the month of purchase.

(ii) The postmark date recorded by the Department or date submitted electronically shall be deemed the date of filing. Consumers remitting tax and/or tax returns in person shall receive a receipt indicating the amount of tax paid and the date received. Hand delivered returns shall be date stamped by the Department at the time received.

(d) Credit.

(i) Vendors and direct pay permit holders, who report and remit sales and use taxes which they have collected and/or accrued on or before the 15th day of the month when the tax is due, are entitled to a prompt pay vendor compensation credit against the taxes paid. A return shall be considered timely if it is postmarked on or before the 15th of the month when due.

(ii) Any person requesting an extension of the filing due date shall not be allowed to claim the credit for early payment of the taxes due.

(iii) The credit allowed shall be limited to each person acting as a vendor or direct pay permit holder in Wyoming and not to each license held by the person. Should the total tax remitted from all locations reported by the vendor exceed the amount which would result in the \$500 cap on the credit, the vendor shall be limited to a \$500 credit.

(iv) Any amendments to taxes previously reported are not eligible for the credit unless the amendment is also reported before the 15th of the month when the taxes are due. Should the amendment reduce the amount of tax originally reported, the credit originally allowed shall be reduced accordingly.

(v) Any vendor or direct pay permit holder that has an outstanding balance on their account from either unpaid taxes or a Department assessment shall be ineligible for credits on their current taxes.

(vi) Any return and payment not postmarked by the discount date shall be ineligible for the credit on their current taxes.

(e) Extension. The Department may grant extensions of filing due date if extenuating circumstances exist which prevent the filer from filing in a timely manner. Requests for extension shall be made in writing to the Excise Tax Division Administrator and shall thoroughly explain the reason for the request.

(f) Returned Tangible Personal Property. Vendors shall refund the sales tax paid by the purchaser on any sale which is rescinded in its entirety. Vendors may claim a deduction from gross sales for the amount of the rescinded sale.

(g) Deductions. Vendors are entitled to claim a deduction from gross receipts on their tax return for refunds once the tax has been refunded back to the customer.

(i) Commissions Not Deductible. Commissions paid to sales agents for their services in making sales shall not be deductible from the total sales price of property or services sold.

(ii) Discounts. Discounts allowed at the time of sale shall be deducted from the taxable sales price. Discounts offered at the time of sale as incentive for prompt payment shall be deducted from the sales price only upon acceptance of the discount. Tax at the time of the sale shall be calculated on the undiscounted amount and if the discount is subsequently taken, shall be credited against future tax liability.

(h) Merchandise Used or Consumed by Vendors. Tangible personal property removed from inventory by the vendor for business or personal consumption shall be subject to sales/use tax. The purchase price of the property shall be the tax basis.

(i) Transportation/Freight Charges. Transportation or outbound freight charges are not taxable and shall not be included within the taxable sales price of any retail sale. Transportation or inbound freight charges in a wholesale transaction are a component of cost of goods sold, like markup and overhead, and become part of the sales price paid by the consumer.

(j) Invoices, Bills of Sale, and Receipts. Each vendor of tangible personal property or services upon which a sales or use tax is imposed shall provide a receipt to the purchaser, except as stated in Subsection (k). The vendor shall retain copies of all receipts containing the following:

- (i) Vendor's name and address;
- (ii) Full and accurate description of the property or service sold (make, model, year, serial number, etc.);
- (iii) Date of sale;
- (iv) Discounts, trade-in allowances, and manufacturer's rebates for motor vehicles;
- (v) Net sales price; and
- (vi) Sales/use tax paid by the purchaser.

(k) Taxes Calculated on Gross Receipts. This method of taxing sales is only allowed when a receipt is not generally provided to the consumer as part of the sale. Where receipts do not accompany each sale (e.g., coin operated vending sales, bar sales, cover charges, admission tickets, and concessions, vendors shall maintain records of tax calculated using the following formula:

$$\text{Tax} = \text{Gross Receipts} - (\text{Gross Receipts} / (1 + \text{Tax Rate}))$$

Example Gross Receipts = \$1,000

Tax Rate = 6%

$$\text{Tax} = \$1,000 - (\$1,000 / (1 + .06))$$

$$\text{Tax} = \$1,000 - 943.40$$

$$\text{Tax} = 56.60$$

(l) Excess Tax Collected. Excess tax collected shall be returned to the purchaser or, if the purchaser is unknown or cannot be ascertained, remitted to the Department. Vendors shall not be entitled to retain excess taxes collected. Due date of the remittance is the same as provided in Subsection (c).

(m) Estimated Tax Returns. A party liable for sales or use tax who is unable to file a tax return containing sales amounts by the due date of the return may file an estimated tax return and make an estimated tax payment prior to the due date of the tax return. Subsequent submission of the tax return and payment of the actual amount of tax due shall be subject to interest and penalty provisions. Estimated tax returns shall be clearly marked and identified as an "Estimated Tax Return." Subsequently submitted returns shall be clearly marked as an "Amended Tax Return." Additional reporting forms may be obtained from the Department.

Section 6. Direct Pay Permits.

(a) General. Purchasers making taxable purchases in this state totaling \$5,000,000 or more per calendar year may apply to the Department for a direct pay permit on the form and in a manner prescribed by the Department.

(i) Application reviews shall be conducted in a timely manner so that applicants receive notification of authorization or denial within thirty (30) days of the date the Department receives the completed application and any necessary supporting documentation.

(ii) If approved, the Department shall assign a direct pay permit number and provide the permittee with a printed direct pay permit.

(b) Reporting.

(i) Purchasers authorized to make direct payment of Wyoming sales tax shall report tax owed in a format as prescribed by the Department. The reports shall be made by the end of the month following the month purchases are made.

(ii) Late filing of reporting forms and remittance of tax due shall result in the assessment of interest and penalty.

Section 7. Non-Taxable and Exempt Sales Transactions.

(a) General. Non-taxable transactions, including sales made for resale, shall be shown separately from taxable charges on sales invoices. The entire invoice amount shall be subject to the sales/use tax if the nontaxable or exempt charges are not separately shown and distinguishable from taxable charges.

(b) Certificates of Exemption.

(i) Vendors shall obtain completed exemption certificates for all sales transactions, other than those qualifying under Section 6 of these rules, where sales tax is not collected from the purchaser at the time of sale. Purchasers shall file a single exemption certificate with each selling vendor for exempt purchases made. The certificates shall be in a format as prescribed by the Streamlined Sales and Use Tax Agreement and shall be retained in the seller's records. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase. A purchaser is not required to provide a signature to claim an exemption from tax unless the paper exemption certificate is used. The seller shall use the standard format for claiming an exemption electronically when that format is adopted by the Streamlined Sales Tax Project Governing Board.

(ii) Vendors shall be relieved of the tax otherwise due if the seller obtains a fully completed exemption certificate or captures the relevant data elements listed in Subsection (i) above within ninety (90) days of the date of the sale.

(iii) Should the vendor not obtain an exemption certificate or the required relevant information, the vendor shall be allowed 120 days subsequent to a request for substantiation:

(A) To obtain a fully completed exemption certificate from the purchaser taken in good faith which means that the vendor obtains a certificate that claims an exemption that was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced, could be applicable to the item being purchased, and is reasonable for the purchaser's type of business; or

(B) To obtain other information establishing that the transaction was not subject to the tax.

(c) Religious and Charitable Organizations. Organizations operated for religious or charitable purposes shall be exempt from sales and use tax on their purchases. Organizations verifying its Internal Revenue Code Section 501(c)(3) status with the Department shall be issued an exemption approval letter on this documentation alone. All other organizations may furnish the documents set forth in the following Subsection. The organizations may apply to the Department in writing for exemption approval and registration.

(i) The Department shall consider the following documentation to determine whether the organization is engaged in charitable or religious activities:

- (A) Articles of incorporation;
- (B) Organizational charter or constitution;
- (C) Mission statement;
- (D) Budget;
- (E) Income and expense statements; and
- (F) Evidence of federal tax exempt status.

(ii) To be considered organized and operated for charitable or religious activities, an organization shall establish that:

(A) The organization is organized and operated for a purpose designed to benefit an indefinite number of persons in an educational, moral, physical, or social manner; and

(B) The organization's assets are completely and permanently pledged to that same charitable or religious purpose; and

(C) No part of the net earnings of the organization shall be distributed to the organization's members, trustees, officers, or other similarly situated persons as salary or profit earned from organizational activities; and

(D) The organization is a non-profit organization, and has expended at least sixty five percent (65%) of its annual income for the prior three (3) years on programs, other organizations, foundations, or similar groups and/or activities directly related to its charitable purposes.

(iii) Organizations shall notify the Department if the conditions allowing exempt status change.

(A) Organizations which have existed for less than three (3) years and which have insufficient history to comply with section 9(c)(ii)(D), as determined by the Department, may be issued exemption approval for one (1) year.

(iv) Purchases made by religious or charitable organizations in or for their regular religious or charitable functions and activities shall be exempt from the sales and use tax. Purchases made by members or employees of religious or charitable organizations shall be subject to the sales or use tax if not paid directly by the organization.

(v) For the purpose of this chapter, construction contractors shall be considered self-employed and not employees of religious or charitable organizations. Contractors shall be subject to the sales and use tax on all equipment, materials, fixtures, and supplies purchased by the contractor to perform under the contract.

(d) Employees of Exempt Agencies. Sales to employees of exempt agencies or organizations shall be taxable, even when the employee is reimbursed by the exempt employer. Payment by the employee shall establish that the employee is acting in his own behalf.

(e) Interstate Commerce. Purchasers and lessees of vehicles used in interstate commerce shall hold valid U.S. Department of Transportation (USDOT) permit or authority as follows to qualify for exemption:

(i) Common or contract for hire interstate carriers shall document their USDOT number, motor carrier's permit, and insurance requirements to qualify for the interstate commerce exemption in W.S. 39-15-105(a)(ii)(B).

(ii) Private carriers not subject to federal regulation shall be subject to the sales or use tax on the purchase or lease of vehicles.

(f) Containers. Containers and packing, when sold to persons who resell the containers together with their contents, shall be exempt from the sales and use tax. Reusable shipping materials are not exempt and taxable to the business.

(g) Disposable and single-use items purchased by restaurants, drive-ins, lunch counters, motels, hotels, and similar retailers for their customer's consumption shall be exempt from the sales and use tax. The purchase is considered a wholesale for resale purchase and ultimately taxed when incorporated into the sales price to the customer. All purchases of reusable products used or directly consumed by vendors shall be subject to sales and use tax at the time of purchase.

(h) Manufacturing, Processing, Agriculture Fuel and Power Purchases. Exempt purchases of power or fuel shall be separately accounted for by separate metering, storage, or engineered calculation as required by the Department. Any nontaxable items shall be distinguishable from taxable purchases of the same.

(i) School Fundraising Activities. School fundraising activities for public schools shall be sales tax exempt. The fundraising activities shall be recognized by the school district receiving the funds as an appropriate activity. Sales made by private vendors on school grounds, not associated with fundraising activity for the school, are considered taxable sales.

(j) Power or Fuel Purchased for Actual Transportation Purposes. For tangible personal property transported by railroad or pipeline, sales of power or fuel consumed in transportation is exempt if the transportation cost is charged to an unaffiliated business entity through a bona fide arm's-length agreement.

Section 8. Credits and Refunds.

(a) Credit. Credits may automatically be applied against the next appropriate liability on the account unless requested otherwise by the taxpayer.

(b) Refunds. Refund requests shall be made in writing to the Department and shall explain the basis of the refund request. Supporting documentation evidencing the overpayment shall be retained by the vendor. The date of refund request shall begin tolling the statute of limitations once all documents required for a determination have been received by the Department. A taxpayer seeking refund of taxes overpaid to a vendor shall seek a refund from the vendor. The notice to the vendor shall contain the information necessary to determine the validity of the request.

(c) Repossession. No refund of sales or use tax shall be made as a result of repossession of tangible personal property.

(d) Refund Requests Referred to the Department of Audit. Such refunds shall only toll the ninety (90) day statute of limitations for refunds if the Department of Audit accepts the refund referral for an audit engagement.

Section 9. Collection and Enforcement.

(a) Installment Payment Agreements. Taxpayers may request in writing an installment payment agreement to pay sales or use tax, penalty, and interest on payment terms and conditions the Department may require. The agreement shall be on a form provided by the Department and shall be signed by the taxpayer along with the Department Director or Excise Tax Division Administrator.

(b) Dishonored Checks. The Department shall present checks for payment twice before assessing civil liability for unpaid checks under W.S. 1-1-115. The Department shall return dishonored checks only after payment in full is received and only if requested by the taxpayer.

Section 10. Contractor Procedure.

(a) Notification Requirements for Non-Resident General Contractors, Nonresident Prime Contractors, and Resident General or Prime Contractors Who Hire Non-Resident Subcontractors. In addition to all other requirements under Wyoming law, upon being awarded a construction project, a non-resident general or prime contractor shall:

(i) Report all labor and material subcontractors hired within fifteen (15) calendar days of subcontract award notification;

(ii) Post a bond with the Department pursuant to W.S. 39-16-306(b)(i). In lieu of a bond, the Department may accept:

(A) A cashier check;

(B) A certificate of deposit, provided that the certificate of deposit:

(I) Shall be issued by an FDIC-insured bank with its main office or any branch located in Wyoming.

(II) Shall be payable in current funds or such other manner as the Department may determine at a bank located in the State of Wyoming.

(III) Shall be issued for an initial term of not less than one (1) year and automatically renewable from year to year.

(IV) The contractor must execute a valid, binding, first priority pledge agreement as to the certificate of deposit, which shall be on the form approved by the Department.

(V) The originals of both the certificate of deposit and fully-executed pledge agreement shall be delivered to the Department at the same time.

(1.) If a certificate of deposit is accepted and retained by the Department under this section, and if the contractor has not deposited an acceptable replacement bond or other acceptable security within thirty (30) days before the certificate of deposit's maturity date, then the contractor shall be deemed to have authorized and directed the Department to demand immediate payment on the certificate of deposit and upon receipt of the proceeds, retain the same as a deposit of the proceeds of certified funds.

(C) A letter of credit, provided the letter of credit:

(I) Shall have a face amount equal to or greater than four percent (4%) of the total contract amount for the project;

(II) Shall be issued by an FDIC-insured bank with its main office or any branch located in Wyoming;

(III) Shall be payable in current funds or other manner as the Department may determine on sight at the counters of an FDIC insured bank located within the State of Wyoming;

(IV) Shall be on a form of approved by the Department;

(V) Shall be issued with an initial expiration date of not less than one (1) year from the date of its issuance and automatically extended from year to year;

(VI) The issue date shall be ten (10) days before the date on which the deposit is received by the Department; and

(VII) The original letter of credit shall be delivered to the Department.

(1.) If a letter of credit is accepted and retained by the Department and the contractor has not deposited an acceptable replacement surety bond or other acceptable security within thirty (30) days before the letter of credit's expiration date or maturity date, the contractor shall be deemed to have authorized and directed the Department to draw the entire face amount of letter of credit and, upon receipt of the proceeds, retain the same as a deposit of proceeds of a collected cashier's check.

(2.) The contractor may deliver at any time to the Department an acceptable surety bond or other acceptable security to replace a letter of credit retained by the Department. Upon receipt and acceptance of a replacement, the Department shall deliver to the contractor the original letter of credit.

(3.) If the Department determines that the contractor that has deposited a letter of credit under this section in lieu of a surety bond and has complied with W.S. 39-15-301 through W.S.39-15-311 and W.S. 39-16-301 through W.S. 39-16-311, then the Department shall deliver to the contractor the original letter of credit.

(b) Non-Resident Subcontractor Requirements. In addition to all other requirements under Wyoming law, upon being awarded a construction project or any part thereof, any non-resident subcontractor shall:

(i) Report all lower tier subcontractors hired within fifteen (15) calendar days of subcontract award notification, and;

(ii) Remit a completed affidavit of completion form within fifteen (15) days following completion date of the subcontract.

(c) Charges for the labor to alter, improve, or construct real property are not subject to sales/use tax except where imposed by statute under W.S. 39-15-103(a)(i)(K).

(d) Work Performed for Exempt Entities. Contractors performing for exempt entities shall be subject to the sales and use tax on all equipment, materials, fixtures, and supplies purchased by the contractor to perform under the contract.

(e) Contractors shall remit use tax and any sales tax not paid to a vendor to the Department by the last day of the month following the month in which a purchase is made.

(f) The Department shall refund any excess retainage withheld from a nonresident subcontractor to the subcontractor if the retainage has been remitted to the Department and exceeds sales or use tax owed by that subcontractor.

Section 11. Motor Vehicles.

(a) Tax Rate for Purchases. The appropriate tax rate on the purchase of a motor vehicle shall be composed of state sales or use taxes and applicable county option sales or use taxes. The appropriate tax rate shall be determined by the tax rate in effect in the county of the purchaser's principal residence as indicated on the owner's driver's license or other government issued identification on the date of the sale. If the purchaser does not have a driver's license or other government issued identification, the purchaser shall provide a statement of residency or principal place of business on a form prescribed by the Department. The tax rate for business entities paying sales and use tax on motor vehicles is based on where the business's main office, branch, or primary base of operations is located in Wyoming.

(b) Any purchase option exercised at the end of a lease agreement is a separate taxable transaction.

(c) Wyoming Sales/Use Tax Statement. All vendors of motor vehicles shall provide purchasers with a copy of the original sales invoice and a copy of the form titled "Wyoming Sales/Use Tax Statement" as prescribed by the Department. To calculate the tax owed, the vendor shall assess the rate in effect in the county of the purchaser's residence. An additional copy of the statement shall be furnished by the vendor to the County Clerk.

(d) The sale of motor vehicles to Native Americans is exempt if possession is passed to the purchaser on the Wind River Indian Reservation.

Section 12. Specific Taxability Issues.

(a) Admission Charges.

(i) Persons or firms who sell tickets for admission to a place of amusement, entertainment, recreation, games, or athletic events shall be responsible for licensing and collecting and remitting sales tax on the admission charges. Admission charges shall include charges commonly referred to as “cover charges” when these charges are paid for entrance into a place of amusement, entertainment, recreation, games or athletic events. Public schools are not municipally or county-owned facilities and shall collect sales tax on admissions unless exempted under W.S. 39-15-105.

(ii) To ensure the collection of the tax on admissions when the place of amusement, entertainment, recreation, games, or athletic events has been leased or rented, the lessor may collect and remit the tax on the admissions to the Department. The lessee’s name shall appear on the record of remittance. In the event the lessor chooses not to assume the responsibility of collecting the tax, the lessee shall register with the Department and collect all applicable taxes as required under Wyoming law and these rules.

(b) Advertising. Printed advertising material to be used or distributed in direct mail advertising within Wyoming shall be taxable to the purchaser. Printed advertising material to be used or distributed in direct mail advertising outside Wyoming shall not be taxable as interstate sales, provided the purchaser does not take possession in Wyoming of the publication from the printer or vendor. When the printer retains possession of the publication and mails the publication for the purchaser, he/she shall retain evidence establishing the number of addresses outside Wyoming in the total mailing. This evidence shall be in the form of an affidavit specifically identifying the number of addresses outside Wyoming.

(c) Auctioneers and Selling Agents. Auctioneers and selling agents shall be considered vendors. As agents for unknown or undisclosed principals, auctioneers, or selling agents are required to have a sales tax license to conduct sales upon which the tax has been imposed and are responsible for the correct collection and remittance of the tax on the sales.

(d) Computer Hardware and Software.

(i) The sale of prewritten computer software is taxable regardless of whether sold on tangible storage media or delivered by the seller electronically.

(ii) The service of repairing, altering, or improving computer hardware, computer software, or canned software shall be subject to the sales tax. Charges for installation of software packages shall also be subject to the tax.

(A) The service of creating custom software for a person shall not be subject to the sales tax. The person performing the service shall be considered the consumer of all tangible personal property or services purchased to perform the service.

(e) Concessions. The operator of any business or concession operating as a vendor shall collect and remit any taxes to the Department, regardless of location. The Department may ask event organizers for a list of vendors operating at concession events with multiple vendors in an effort to reduce administrative time and burden to the vendors.

(f) Credit, Contract, or Conditional Sales. Sales and use tax shall be collected at the time of the sale or purchase transaction of tangible personal property or taxable services sold on a credit basis if title or possession of the property pass at the time of the transaction. If title passes at a future date, the vendor shall collect sales tax on each payment that portion of the total tax bears to the purchase price.

(g) Demurrage. Demurrage charges made by vendors selling acetylene, oxygen, nitrogen, hydrogen, helium, and similar gaseous products in returnable containers shall not be subject to the sales tax.

(h) Detailing. Vehicle detailing services shall be subject to the sales tax. This includes washing, drying, vacuuming, waxing, polishing, and other similar services provided by the vendor. The purchase of supplies to be used to perform the services shall be considered wholesale purchases and not subject to the sales or use tax.

(i) Drop Shipments/Third Party Sales. Drop Shipments will be considered two separate transactions. This supply chain technique is generally between a supplier, a vendor, and an end customer. The first transaction is between the supplier and the vendor, even if the vendor does not directly receive the product. This first transaction is considered a wholesale for resale transaction, and the vendor may provide an exemption certificate to the supplier. The second transaction is between the vendor and the end consumer. This transaction shall be subject to any applicable taxes if shipped to a Wyoming customer.

(j) Exterminators. Services performed for the extermination of plant, insect, or animal life shall not be subject to the sales tax. Purchases of equipment, materials, supplies, and services shall be subject to the sales or use tax when purchased by the person providing the extermination service.

(k) Financial Institutions.

(i) Banks, savings and loan associations, trust companies, finance and loan companies, and other similar companies shall be subject to the sales and use tax on tangible personal property purchased or leased and used to conduct their business. The institutions shall collect and remit sales tax on their retail sales of tangible personal property.

(ii) Federally-chartered credit unions and federal land banks shall be exempt from the sales or use tax on purchases and services used to conduct their business. The institutions shall collect and remit sales tax on their retail sales of tangible personal property or services which are subject to the sales tax.

(l) Garages and Service Stations. The sales price for all services performed upon tangible personal property by garages and service stations shall be subject to sales tax. Purchases of consumable materials and supplies such as solvents, lubricants and parts, which are necessary in performing taxable services provided by garages and service stations, shall be exempted from the tax as wholesale for resale purchases.

(m) Garbage and Chemical Toilets or Sanitary Services. Charges made for garbage hauling, latrine or sanitary services, and similar services shall not be subject to the sales tax. The person providing the container, latrine, or similar container for use in the sanitary or latrine service shall pay the sales or use tax on the purchase of the container.

(n) Goods Damaged in Transit. Where title to or possession of tangible personal property subject to sales tax has passed to the purchaser and is damaged in transit, the vendor shall collect the sales tax from the purchaser on the full sales price. Where title to or possession of tangible personal property shipped by a vendor to a purchaser has not passed to the purchaser and the goods are damaged or destroyed during transit, the taxability of the vendor's reimbursement shall depend upon whether the reimbursement for the damages or destruction allows title or possession to the property to pass to the carrier or the carrier's insurance firm. If title or possession to the tangible personal property passes to the carrier or the carrier's insurance firm as in a retail sale as defined by W.S. 39-15-101(a)(vi), the transfer shall be subject to the tax. The amount of the reimbursement shall establish the tax base of the transaction. If title to the tangible personal property passes to the carrier or the carrier's insurance firm in a wholesale sale, the transfer shall be exempt from sales tax.

(o) Laundry, Dry Cleaning, Pressing, and Dyeing. The total charge made for performing the service of laundering, dry cleaning, or pressing, and dyeing shall be subject to the sales tax. Sales of materials and supplies which are necessary in performing the taxable service such as detergents, starch, and cleaning solvent shall be considered wholesale purchases or sales.

(p) Lodging.

(i) The total amount charged to transient guests for board or room or both is subject to the sales tax and any applicable lodging tax. The taxable sales price shall include all charges made for all services and supplies furnished in connection with the lodging service. This charge shall include charges for such services as room service meals.

(ii) Charges made to use facilities other than for lodging services, such as meeting rooms, sample rooms, and ballrooms, shall not be subject to the sales tax.

(iii) The provider of a lodging service shall be considered to be the end consumer of electricity, fuel, linens, cleaning supplies, towels, furniture, and other items of tangible personal property necessary for the maintenance of the establishment. Purchases of these items shall be subject to the sales or use tax.

(iv) Paper cups, hand soap, toilet tissue, paper towels, and similar items furnished to transient guests without additional charge shall be considered to be purchases for resale and shall not be subject to sales or use tax. Beverages, food, and other convenience items provided to transient guests shall be considered purchases for resale and not subject to the sales or use tax if the cost of the items is part of the overall charge for lodging services.

(v) Purchases of intrastate telephone services by the provider of a lodging service shall be subject to the sales tax. The vendor shall pay tax on the difference between the cost of intrastate telephone service and the total fees collected from customers for intrastate telephone calls.

(vi) Where a guest (individual or corporate) contracts for or leases a room for a term of thirty (30) continuous days, or more, there is no sales tax due. In this arrangement, the first twenty-nine (29) days are not taxable because of the intent to lease for thirty (30) or more continuous days. If, for example, a corporation were to rent a room for a term of thirty (30) continuous days or more and rotate employees during the term, it qualifies as nontaxable because the corporation is considered the guest. The contract, lease, or correspondence should clearly indicate this arrangement. If the lodging service ends before the thirtieth (30th) day, the sales tax and applicable lodging tax is due.

(vii) When a transient guest books a lodging service through an online travel company, the online travel company shall be responsible for reporting any applicable taxes on the entire cost of the lodging stay.

(viii) Travel agents, tour bus operators, and similar service providers shall be considered the end consumers of any taxable services provided by the travel industry and shall be charged any applicable taxes as long as they are not considered a marketplace facilitator.

(ix) Sales of lodging services by guides and outfitters are exempt from excise tax imposed by W.S. 39-15-204(a)(ii).

(q) Meals Not Regularly Served to the Public. Meals sold or furnished by hospitals to patients and staff, by schools to students and staff, and nursing homes to occupants and staff shall not be subject to the sales tax if the establishments do not hold themselves out as selling to the public at large. The establishments shall be considered to be purchasers of the food and shall pay sales or use tax on those purchases, unless otherwise exempt. Meals sold by senior citizen centers shall not be subject to the sales tax.

(i) All establishments of any nature which sell and serve food and meals to the general public shall collect tax on the amount charged for all meals sold. Tax shall not be collected on food or meals furnished without charge to employees. Napkins, disposable food containers, and similar consumable items sold with the food at no additional charge to the customer shall be considered to be wholesale for resale purchases.

(r) Meat Cutting and Butchering Services. Meat cutting and butchering services shall be considered to be services performed upon tangible personal property and subject to the sales tax.

(s) Nicotine Products. Retail sales of all nicotine products shall be subject to the sales tax in addition to the tax imposed by W.S. 39-18-103.

(t) Oil and Gas Services.

(i) All seismographic and geophysical surveying, stratigraphic testing, coring, logging, and testing calculated to reveal the existence of geologic conditions favorable to the accumulation of oil or gas are not taxable.

(ii) Invoices billing for oil and gas field services shall indicate if the billed services are performed before or after setting and cementing of production casing, or if production casing is not set as in the case of an open hole completion, after the completion of the underreaming, or the attaining of total depth of the oil or gas well. The invoices shall also state if the billed services are performed within the boundaries of the well site. The invoice shall separately state the taxable and nontaxable services or the entire invoice shall be subject to the sales tax.

(iii) Any person engaged in the business of selling oil or gas services within the well site is a vendor and shall license and report their taxable and non-taxable services to the Department. The tax associated with taxable services shall be collected and remitted to the Department unless the vendor receives the proper information required a direct pay permit holder.

(iv) The Department may use the date that production casing was installed or the total depth date as found on the Wyoming Oil and Gas Conservation Commission website if the date of the taxable phase cannot be determined using documentation provided by the vendor.

(u) Photography, Photo Developing, and Enlarging. The sales price paid for photographs, photo equipment and supplies, photography and photo developing, and printing shall be subject to the sales tax. Materials and supplies such as paper and chemicals consumed in the process of producing photographs intended for resale shall be exempt from the sales tax.

(v) Printers. Printers produce tangible personal property. The printer's retail sale shall be subject to the sales tax. Printers shall not deduct labor or service charges from the tax base of the sale. When printers purchase cards or envelopes that are stamped with postage, the printers shall collect and remit sales tax on the total sales price less the amount of the postage. All charges made for copying or reproduction services shall be subject to the sales tax.

(w) Purchases by Businesses. Purchases by businesses and professional persons of equipment, tools, and supplies for use in conducting their businesses or professions are the end consumer and shall be subject to the sales or use tax.

(x) Rentals or Leases. The gross rental paid for a lease or contract where possession of tangible personal property transfers, and the transfer would be taxable if a sale occurred, shall be subject to the sales tax. The owner of the property shall be considered the vendor and shall charge, collect, and remit the sales tax on each rental or lease payment. The purchase of tangible personal property which shall be exclusively held for rental, lease, or sale shall be considered a wholesale purchase and shall be exempt from the sales tax.

(y) Repairs, Alterations, and Improvements. Labor or service charges for the repair, alteration, or improvement of tangible personal property as well as charges for materials, supplies, and fabrication used in rendering services, shall be subject to the sales tax. The purchase of materials, supplies, and fabrication which become an ingredient of the repair, alteration, or improvement of tangible personal property shall be considered wholesale sales.

(z) Specified Digital Products. The sale of specified digital products is subject to sales tax when the product is transferred for permanent use to the taxpayer. The sale of digital code shall be taxed as the sale of a specified digital product. For the purpose of this rule, "digital code" means a code which provides the purchaser with a right to obtain one or more specified digital products. Digital code may be obtained by any means, including email or the sale of a coded card regardless of its designation as "song code", "video code", or "book code".

(aa) State and Subdivisions Furnishing Copies of Official Documents. State of Wyoming agencies or political subdivisions furnishing copies of laws, rules and regulations, official documents, or other records in the custody of the agencies for a charge shall not collect sales tax on the same.

(bb) Telephone Services. All rentals of equipment or services incidental to intrastate telephone services including but not limited to, the lease or rental of tangible personal property and access to a telephone transmission system, shall be subject to the sales tax.

(cc) Prepaid calling cards, telephone debit cards, or other similar items which entitle the purchaser to receive telephone services shall be considered tangible personal property. The retail sale or purchase of cards shall be subject to the sales and use tax.

(dd) Vending Machines. Vending machine sales of tangible personal property, except postage stamps and food for domestic home consumption, shall be subject to the sales tax. Prepared food sold in a vending machine shall remain taxable.

(i) Complete records shall be kept by the vending machine vendor showing the location of each machine operated by the vendor during each monthly period, its serial number, and the amount of revenue taken from the machine during each monthly period.

(ee) Warranties.

(i) Standard or mandatory warranties and maintenance contracts provided with the purchase of tangible personal property by the manufacturer or vendor shall be included in the taxable sales price of the tangible personal property.

(A) Repairs, alterations, or improvements performed upon tangible personal property under a standard warranty shall not be subject to the sales tax.

(ii) Extended warranties, service and maintenance contracts, or similar agreements which are sold for an additional and separate cost and provide additional services or extend the timeframe of service coverage shall not be subject to the sales tax.

(A) Repairs, alterations, or improvements performed upon tangible personal property under an extended warranty, service contract, or similar agreement shall be subject to the sales tax.

(I) The consumer shall be liable for the tax on repair services not covered by the agreement. The issuer of the agreement shall be liable for the sales tax on the repair charges covered by the extended warranty.

(II) A contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software, or both shall be subject to the sales tax.

CHAPTER 2

SALES AND USE TAX

Section 1. Authority. This chapter is adopted under the authority of W.S. 39-11-102.

Section 2. Definitions.

(a) “Abandonment” means all work performed within a well site to cease producing oil and gas from a well when it becomes unprofitable including removal of production equipment, permanent sealing of the wellbore, and well site reclamation. Abandonment does not include temporary shut-ins of an oil or gas well. Work to shut-in oil or gas wells is taxable and is not an abandonment of a well site.

(b) “Activities sequentially required” means services in an oil or gas well site that occur in the following order: exploration, drilling, completion, production, maintenance, and abandonment of the well site. This order is maintained for taxability regardless of the chronological order of occurrences.

(c) “Agent” means any person acting under the authority of the vendor including, but not limited to, truckers, peddlers, canvassers, salespersons, representatives, employees, supervisors, distributors, delivery persons, or any other persons performing deliveries in this state.

(d) “Alcoholic beverage” means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume.

(e) “Assistive Device” means any item, piece of equipment, or product system used to increase, maintain, or improve the functional capabilities of an individual with a permanent disability. This includes, but is not limited to, computers used to replicate speech, wheelchair lifts and pedal extensions used to assist in mobility, and any other devices which allow the disabled person to lead a more normal lifestyle. These devices shall not include any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual.

(f) “Business entity” means and includes an individual, partnership, corporation, corporate division, joint stock company or any other association or entity, public or private, or separate business unit thereof.

(g) “Certified Automated System (CAS)” means software certified under the Streamlined Sales Tax Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(h) “Certified Service Provider (CSP)” means an agent certified under the Streamlined Sales Tax Agreement to perform all the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases.

(i) “Consideration” means recompense or payment which includes anything of value to the parties to a sale. Consideration is not limited to cash. Assumption of debt is a form of consideration.

(j) “Construction project” is the set of all agreements to perform repairs, improvements, alterations, or constructions which is to be done together on real property. When repair, alteration, improvement, or new construction agreements are contingent upon one another or are made dependent upon the happening of one another, such agreements shall be considered part of the same construction project. A construction project may consist of a single agreement to repair, alter, improve, or construct a single item of real property.

(k) “Consumer” means any person exercising any right of ownership over tangible personal property or taxable services or admissions unless the property, admissions, or services are purchased for resale in the normal course of business.

(l) “Dietary Supplement” means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in above that is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and is required to be labeled as a dietary supplement, identifiable by the “Supplemental Facts” box found on the label and as required pursuant to 21 C.F.R. § 101.36.

(ii) Dietary Supplements are not prepared food.

(m) “Drilling” means the act of boring a hole through which oil and/or gas may be produced or encountered in commercial quantities including, but not limited to, placement of the rig and setting up of the well site, boring of the hole, placement and cementing of casing to protect the aquifers, and removal of the rig upon attainment of the appropriate depth.

(n) “Fixtures” means articles of tangible personal property which are appurtenances to a building/structure and do not lose their identity as appurtenances, but due to the owner’s intentions, the fixtures become a permanent part of the real property. This may include, but is not limited to, lighting fixtures; plumbing fixtures; hot water heaters; furnaces; boilers; central heating units; elevators; hoists; burglar and fire alarms which are wired into the structure; central air conditioning and built-in refrigeration units; built-in ovens, ranges, and dishwashers; and wall-to-wall carpeting which is glued down or otherwise permanently attached to the floor of the structure.

(o) “Maintenance” means any and all work performed at the well site to maintain production of the oil or gas well. This work includes, but is not limited to, repairs made to equipment at the well site, the monitoring of activity at the well site, and all other activities to maintain production. This definition as stated applies only in taxation of oil or gas operations.

(p) “Native American” means any enrolled member of the Shoshone Tribe or the Northern Arapaho Tribe of the Wind River Indian Reservation.

(q) “Newspaper” means a publication that is printed on newsprint and is distributed daily, weekly, or at other intervals, and is used to disseminate news of a general character and of a general interest. This includes magazines, handbills, circulars, advertising flyers, sales catalogs, or other printed materials when they are distributed and sold as part of the newspaper.

(r) “Occasional Sale” means a separate event occurring four or fewer times in a calendar year by the same vendor. Occasional sale does not include sales of tangible personal property at an organized event with multiple vendors.

(s) “Permanent Disability” means a severe, chronic disability of an individual that is attributable to a mental or physical impairment or combination of mental and physical impairment; is likely to continue indefinitely; and results in substantial functional limitations in three or more of the following major life activities: self-care, receptive and expressive language learning, mobility, self-direction, capacity for independent living, and/or economic self-sufficiency.

(t) “Pipeline” means a system of connected lengths of large diameter pipes which are used to transport oil, natural gas, or other hydrocarbons over long distances under high pressure to eventual interstate or intrastate customer sales points. A pipeline does not include pipes, and other equipment, used as part of a gathering system which collects and moves oil, natural gas, or other hydrocarbons from well sites to either a central delivery point, initial storage tank, lease automatic custody transfer (LACT) unit, or to the inlet of an interstate or intrastate transmission pipeline.

~~(t)~~(u) “Places of amusement, entertainment, recreation, games or athletic event” include any theater, hall, ballroom, park, grounds, outdoor facility, or similar facility used in whole or in part for any form of amusement, entertainment, recreation, games, or athletic event.

~~(u)~~(v) “Principal Residence” as used in Section 11 means a person’s true, fixed, and permanent physical Wyoming address to which a person intends to return.

~~(v)~~(w) “Production” means all work performed within a well site to produce an oil or gas well. Production begins with the first barrel of oil or the first MCF of gas for market and ends once the well is abandoned. This definition applies only in the taxation of oil or gas operations for sales and use tax purposes, but this term may be different from the beginning of the production casing phase.

~~(w)~~(x) “Production Casing” means the series of steel pipe lengths, screwed or welded together through which oil and gas flows to the surface.

~~(x)~~(y) “Purchaser” means a person to whom a sale of tangible personal property is made or to whom a service is furnished.

~~(y)~~(z) “Recompletion” means any downhole operation in an existing oil or gas well that is conducted to establish production of an oil or gas well in any geological interval not currently completed or producing which has been approved as a recompletion by the Wyoming Oil and Gas Conservation Commission.

~~(z)~~(aa) “Seller” means a person making sales, leases, or rentals of tangible personal property or services.

~~(aa)~~(bb) “Streamlined Sales Tax Agreement” means the agreement adopted pursuant to W.S. 39-15-403.

Section 3. Administrative Functions.

(a) Sales/Use Tax Rate. The time and place of sale shall determine the applicable tax rate, except for motor vehicles.

(i) Leased/Rented Tangible Personal Property. Any purchase option exercised at the end of the lease agreement is a separate transaction and shall be taxed as a separate sale where the transaction occurs.

(ii) For services involving periodic billings, tax rate increases shall apply to the first billing period starting on or after the effective date of the rate change. For tax rate decreases, the new rate shall apply to bills rendered on or after the effective date.

(b) Payments made for sales/use tax liabilities shall be applied in the following order: fees, interest, tax, and penalty. Payments shall be applied to the oldest debt first.

(c) In all cases, the burden of proof as to the point of delivery is upon the vendor. All delivery slips, freight bills, etc., shall be preserved for three (3) years along with all invoices and other business records.

(d) Corrections to Assessments. Sales/use tax assessments issued by the Department which are later found to be in error may be amended. The amendments do not change the date of the original assessment.

(e) The State of Wyoming shall provide and maintain a database of sales and use tax rates for all taxing jurisdictions within the boundaries of the state and a taxability matrix, which provides sellers with a listing of general product and service categories and the taxability of each item. For the identification of state and local jurisdictions, the state shall use Federal Information Processing Standards (FIPS) codes.

(f) The state shall relieve sellers, Certified Service Providers (CSPs), and sellers using a Certified Automated System (CAS) from liability to the state and local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller, CSP, or seller using a CAS relying on erroneous data provided by the state.

(g) Calculating the Tax. Rounding tax calculation shall be carried to the third decimal place, and shall be rounded to a whole cent using a method that rounds up to the next whole cent whenever the third decimal place is greater than four (4).

Section 4. Licensing.

(a) Non-nexus vendors that are participating in the Streamlined Sales Tax Agreement will can be registered in all member states through use of the centralized registration process provided under the agreement. Under this process, a seller registering under the agreement will not pay a fee for registration or licensing for any state where there is no legal requirement to register. No written signature of the licensing seller will be required. An agent may register a seller under uniform procedures adopted by the Streamlined Sales Tax Governing Board. Cancellation does not relieve the seller of its liability for remitting to the proper states any taxes collected.

(b) Governmental Entities. The retail sale, lease, or rental of tangible personal property or taxable services by the State of Wyoming or its political subdivisions shall be subject to the sales/use tax. The governmental entity shall be considered a vendor and shall be licensed and collect tax on taxable transactions.

(c) Tribal Members. Sales or Leases on the Wind River Indian Reservation. Persons on the Wind River Reservation who are engaged in selling or leasing tangible personal property or providing services subject to the sales or use tax shall become licensed as vendors. Vendors shall comply with all reporting requirements as directed by the Department for sales or leases occurring on the Reservation to any person who is not an enrolled member of the Northern Arapaho or Eastern Shoshone Tribes.

(d) Multiple Business Locations. At the vendor's option, they may ask to have multiple locations under the same ownership consolidated so the tax for all locations can be filed on a single return.

(e) Transfer of License. Sales/use tax licenses shall not be transferable. If there is a change from one legal entity to another, the new entity shall apply for a new sales/use tax license under the new entity's legal name. Any such change shall be reported to the Department immediately. The license fee shall be imposed on each such change.

(f) Any vendors or remote sellers selling exclusively through a marketplace facilitator shall not be required to license with the Department as long as the marketplace facilitator is licensed to collect and report taxes to the Department.

(g) Simply having a registered agent, virtual office, or accounting firm in Wyoming does not automatically prompt a licensing requirement.

(h) Persons engaged in occasional sales shall not be required to collect sales tax.

Section 5. Reporting.

(a) Reporting Frequency. The Department shall assign vendors a filing frequency at the time of licensing. Filing frequency may be changed by the Department based on the volume of sales/use tax collected and other criteria as established in policy and procedure guidelines. Filing frequency assigned by the Department shall be monthly, quarterly, or annually.

(b) Reporting Forms. Vendors shall file sales/use tax data on sales/use tax returns provided by the Department or in other format or media as approved by the Department. Returns shall be rejected if not completed in accordance with the instructions provided. A vendor shall have fifteen (15) calendar days from the date of notification to submit a corrected report without incurring late filing penalties as long as the original report was filed on time.

(c) Due Date. Monthly filers shall submit returns and tax on or before the last day of the month following the month in which the Wyoming sales occurred; quarterly filers shall submit returns and tax on or before January 31, April 30, July 31, and October 31 of each calendar year; and annual filers shall submit returns on or before January 31 of each calendar year. If a due date falls on a weekend or federal or Wyoming state holiday, the next business day serves as the new due date.

(i) Consumers, including contractors, remitting sales or use tax not paid to vendors shall remit the tax on or before the last day of the month following the month of purchase.

(ii) The postmark date recorded by the Department or date submitted electronically shall be deemed the date of filing. Consumers remitting tax and/or tax returns in person shall receive a receipt indicating the amount of tax paid and the date received. Hand delivered returns shall be date stamped by the Department at the time received.

(d) Credit.

(i) Vendors and direct pay permit holders, who report and remit sales and use taxes which they have collected and/or accrued on or before the 15th day of the month when the tax is due, are entitled to a prompt pay vendor compensation credit against the taxes paid. A return shall be considered timely if it is postmarked on or before the 15th of the month when due.

(ii) Any person requesting an extension of the filing due date shall not be allowed to claim the credit for early payment of the taxes due.

(iii) The credit allowed shall be limited to each person acting as a vendor or direct pay permit holder in Wyoming and not to each license held by the person. Should the total tax remitted from all locations reported by the vendor exceed the amount which would result in the \$500 cap on the credit, the vendor shall be limited to a \$500 credit.

(iv) Any amendments to taxes previously reported are not eligible for the credit unless the amendment is also reported before the 15th of the month when the taxes are due. Should the amendment reduce the amount of tax originally reported, the credit originally allowed shall be reduced accordingly.

(v) Any vendor or direct pay permit holder that has an outstanding balance on their account from either unpaid taxes or a Department assessment shall be ineligible for credits on their current taxes.

(vi) Any return and payment not postmarked by the discount date shall be ineligible for the credit on their current taxes.

(e) Extension. The Department may grant extensions of filing due date if extenuating circumstances exist which prevent the filer from filing in a timely manner. Requests for extension shall be made in writing to the Excise Tax Division Administrator and shall thoroughly explain the reason for the request.

(f) Returned Tangible Personal Property. Vendors shall refund the sales tax paid by the purchaser on any sale which is rescinded in its entirety. Vendors may claim a deduction from gross sales for the amount of the rescinded sale.

(g) Deductions. Vendors are entitled to claim a deduction from gross receipts on their tax return for refunds once the tax has been refunded back to the customer.

(i) Commissions Not Deductible. Commissions paid to sales agents for their services in making sales shall not be deductible from the total sales price of property or services sold.

(ii) Discounts. Discounts allowed at the time of sale shall be deducted from the taxable sales price. Discounts offered at the time of sale as incentive for prompt payment shall be deducted from the sales price only upon acceptance of the discount. Tax at the time of the sale shall be calculated on the undiscounted amount and if the discount is subsequently taken, shall be credited against future tax liability.

(h) Merchandise Used or Consumed by Vendors. Tangible personal property removed from inventory by the vendor for business or personal consumption shall be subject to sales/use tax. The purchase price of the property shall be the tax basis.

(i) Transportation/Freight Charges. Transportation or outbound freight charges are not taxable and shall not be included within the taxable sales price of any retail sale. Transportation or inbound freight charges in a wholesale transaction are a component of cost of goods sold, like markup and overhead, and become part of the sales price paid by the consumer.

(j) Invoices, Bills of Sale, and Receipts. Each vendor of tangible personal property or services upon which a sales or use tax is imposed shall provide a receipt to the purchaser, except as stated in Subsection (k). The vendor shall retain copies of all receipts containing the following:

- (i) Vendor's name and address;
- (ii) Full and accurate description of the property or service sold (make, model, year, serial number, etc.);
- (iii) Date of sale;
- (iv) Discounts, trade-in allowances, and manufacturer's rebates for motor vehicles;
- (v) Net sales price; and
- (vi) Sales/use tax paid by the purchaser.

(k) Taxes Calculated on Gross Receipts. This method of taxing sales is only allowed when a receipt is not generally provided to the consumer as part of the sale. Where receipts do not accompany each sale (e.g., coin operated vending sales, bar sales, cover charges, admission tickets, and concessions, vendors shall maintain records of tax calculated using the following formula:

$$\text{Tax} = \text{Gross Receipts} - (\text{Gross Receipts} / (1 + \text{Tax Rate}))$$

Example Gross Receipts = \$1,000

Tax Rate = 6%

$$\text{Tax} = \$1,000 - (\$1,000 / (1 + .06))$$

$$\text{Tax} = \$1,000 - 943.40$$

$$\text{Tax} = 56.60$$

(l) Excess Tax Collected. Excess tax collected shall be returned to the purchaser or, if the purchaser is unknown or cannot be ascertained, remitted to the Department. Vendors shall not be entitled to retain excess taxes collected. Due date of the remittance is the same as provided in Subsection (c).

(m) Estimated Tax Returns. A party liable for sales or use tax who is unable to file a tax return containing sales amounts by the due date of the return may file an estimated tax return and make an estimated tax payment prior to the due date of the tax return. Subsequent submission of the tax return and payment of the actual amount of tax due shall be subject to interest and penalty provisions. Estimated tax returns shall be clearly marked and identified as an "Estimated Tax Return." Subsequently submitted returns shall be clearly marked as an "Amended Tax Return." Additional reporting forms may be obtained from the Department.

Section 6. Direct Pay Permits.

(a) General. Purchasers making taxable purchases in this state totaling \$5,000,000 or more per calendar year may apply to the Department for a direct pay permit on the form and in a manner prescribed by the Department.

(i) Application reviews shall be conducted in a timely manner so that applicants receive notification of authorization or denial within thirty (30) days of the date the Department receives the completed application and any necessary supporting documentation.

(ii) If approved, the Department shall assign a direct pay permit number and provide the permittee with a printed direct pay permit.

(b) Reporting.

(i) Purchasers authorized to make direct payment of Wyoming sales tax shall report tax owed in a format as prescribed by the Department. The reports shall be made by the end of the month following the month purchases are made.

(ii) Late filing of reporting forms and remittance of tax due shall result in the assessment of interest and penalty.

Section 7. Non-Taxable and Exempt Sales Transactions.

(a) General. Non-taxable transactions, including sales made for resale, shall be shown separately from taxable charges on sales invoices. The entire invoice amount shall be subject to the sales/use tax if the nontaxable or exempt charges are not separately shown and distinguishable from taxable charges.

(b) Certificates of Exemption.

(i) Vendors shall obtain completed exemption certificates for all sales transactions, other than those qualifying under Section 6 of these rules, where sales tax is not collected from the purchaser at the time of sale. Purchasers shall file a single exemption certificate with each selling vendor for exempt purchases made. The certificates shall be in a format as prescribed by the Streamlined Sales and Use Tax Agreement and shall be retained in the seller's records. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase. A purchaser is not required to provide a signature to claim an exemption from tax unless the paper exemption certificate is used. The seller shall use the standard format for claiming an exemption electronically when that format is adopted by the Streamlined Sales Tax Project Governing Board.

(ii) Vendors shall be relieved of the tax otherwise due if the seller obtains a fully completed exemption certificate or captures the relevant data elements listed in Subsection (i) above within ninety (90) days of the date of the sale.

(iii) Should the vendor not obtain an exemption certificate or the required relevant information, the vendor shall be allowed 120 days subsequent to a request for substantiation:

(A) To obtain a fully completed exemption certificate from the purchaser taken in good faith which means that the vendor obtains a certificate that claims an exemption that was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced, could be applicable to the item being purchased, and is reasonable for the purchaser's type of business; or

(B) To obtain other information establishing that the transaction was not subject to the tax.

(c) Religious and Charitable Organizations. Organizations operated for religious or charitable purposes shall be exempt from sales and use tax on their purchases. Organizations verifying its Internal Revenue Code Section 501(c)(3) status with the Department shall be issued an exemption approval letter on this documentation alone. All other organizations may furnish the documents set forth in the following Subsection. The organizations may apply to the Department in writing for exemption approval and registration.

(i) The Department shall consider the following documentation to determine whether the organization is engaged in charitable or religious activities:

- (A) Articles of incorporation;
- (B) Organizational charter or constitution;
- (C) Mission statement;
- (D) Budget;
- (E) Income and expense statements; and
- (F) Evidence of federal tax exempt status.

(ii) To be considered organized and operated for charitable or religious activities, an organization shall establish that:

(A) The organization is organized and operated for a purpose designed to benefit an indefinite number of persons in an educational, moral, physical, or social manner; and

(B) The organization's assets are completely and permanently pledged to that same charitable or religious purpose; and

(C) No part of the net earnings of the organization shall be distributed to the organization's members, trustees, officers, or other similarly situated persons as salary or profit earned from organizational activities; and

(D) The organization is a non-profit organization, and has expended at least sixty five percent (65%) of its annual income for the prior three (3) years on programs, other organizations, foundations, or similar groups and/or activities directly related to its charitable purposes.

(iii) Organizations shall notify the Department if the conditions allowing exempt status change.

(A) Organizations which have existed for less than three (3) years and which have insufficient history to comply with section 9(c)(ii)(D), as determined by the Department, may be issued exemption approval for one (1) year.

(iv) Purchases made by religious or charitable organizations in or for their regular religious or charitable functions and activities shall be exempt from the sales and use tax. Purchases made by members or employees of religious or charitable organizations shall be subject to the sales or use tax if not paid directly by the organization.

(v) For the purpose of this chapter, construction contractors shall be considered self-employed and not employees of religious or charitable organizations. Contractors shall be subject to the sales and use tax on all equipment, materials, fixtures, and supplies purchased by the contractor to perform under the contract.

(d) Employees of Exempt Agencies. Sales to employees of exempt agencies or organizations shall be taxable, even when the employee is reimbursed by the exempt employer. Payment by the employee shall establish that the employee is acting in his own behalf.

(e) Interstate Commerce. Purchasers and lessees of vehicles used in interstate commerce shall hold valid U.S. Department of Transportation (USDOT) permit or authority as follows to qualify for exemption:

(i) Common or contract for hire interstate carriers shall document their USDOT number, motor carrier's permit, and insurance requirements to qualify for the interstate commerce exemption in W.S. 39-15-105(a)(ii)(B).

(ii) Private carriers not subject to federal regulation shall be subject to the sales or use tax on the purchase or lease of vehicles.

(f) Containers. Containers and packing, when sold to persons who resell the containers together with their contents, shall be exempt from the sales and use tax. Reusable shipping materials are not exempt and taxable to the business.

(g) Disposable and single-use items purchased by restaurants, drive-ins, lunch counters, motels, hotels, and similar retailers for their customer's consumption shall be exempt from the sales and use tax. The purchase is considered a wholesale for resale purchase and ultimately taxed when incorporated into the sales price to the customer. All purchases of reusable products used or directly consumed by vendors shall be subject to sales and use tax at the time of purchase.

(h) Manufacturing, Processing, Agriculture Fuel and Power Purchases. Exempt purchases of power or fuel shall be separately accounted for by separate metering, storage, or engineered calculation as required by the Department. Any nontaxable items shall be distinguishable from taxable purchases of the same.

(i) School Fundraising Activities. School fundraising activities for public schools shall be sales tax exempt. The fundraising activities shall be recognized by the school district receiving the funds as an appropriate activity. Sales made by private vendors on school grounds, not associated with fundraising activity for the school, are considered taxable sales.

(j) Power or Fuel Purchased for Actual Transportation Purposes. For tangible personal property transported by railroad or pipeline, sales of power or fuel consumed in transportation is exempt if the transportation cost is charged to an unaffiliated business entity through a bona fide arm's-length agreement.

Section 8. Credits and Refunds.

(a) Credit. Credits may automatically be applied against the next appropriate liability on the account unless requested otherwise by the taxpayer.

(b) Refunds. Refund requests shall be made in writing to the Department and shall explain the basis of the refund request. Supporting documentation evidencing the overpayment shall be retained by the vendor. ~~Postmarks shall serve as t~~The date of refund request ~~and shall~~ begin tolling the statute of limitations once all documents required for a determination have been provided by the taxpayer received by the Department. A taxpayer seeking refund of taxes overpaid to a vendor shall seek a refund from the vendor. The notice to the vendor shall contain the information necessary to determine the validity of the request.

(c) Repossession. No refund of sales or use tax shall be made as a result of repossession of tangible personal property.

(d) Refund Requests Referred to the Department of Audit. Such refunds shall only toll the ninety (90) day statute of limitations for refunds if the Department of Audit accepts the refund referral for an audit engagement.

Section 9. Collection and Enforcement.

(a) Installment Payment Agreements. Taxpayers may request in writing an installment payment agreement to pay sales or use tax, penalty, and interest on payment terms and conditions the Department may require. The agreement shall be on a form provided by the Department and shall be signed by the taxpayer along with the Department Director or Excise Tax Division Administrator.

(b) Dishonored Checks. The Department shall present checks for payment twice before assessing civil liability for unpaid checks under W.S. 1-1-115. The Department shall return dishonored checks only after payment in full is received and only if requested by the taxpayer.

Section 10. Contractor Procedure.

(a) Notification Requirements for Non-Resident General Contractors, Nonresident Prime Contractors, and Resident General or Prime Contractors Who Hire Non-Resident Subcontractors. In addition to all other requirements under Wyoming law, upon being awarded a construction project, a non-resident general or prime contractor shall:

(i) Report all labor and material subcontractors hired within fifteen (15) calendar days of subcontract award notification;

(ii) Post a bond with the Department pursuant to W.S. 39-16-306(b)(i). In lieu of a bond, the Department may accept:

(A) A cashier check;

(B) A certificate of deposit, provided that the certificate of deposit:

(I) Shall be issued by an FDIC-insured bank with its main office or any branch located in Wyoming.

(II) Shall be payable in current funds or such other manner as the Department may determine at a bank located in the State of Wyoming.

(III) Shall be issued for an initial term of not less than one (1) year and automatically renewable from year to year.

(IV) The contractor must execute a valid, binding, first priority pledge agreement as to the certificate of deposit, which shall be on the form approved by the Department.

(V) The originals of both the certificate of deposit and fully-executed pledge agreement shall be delivered to the Department at the same time.

(1.) If a certificate of deposit is accepted and retained by the Department under this section, and if the contractor has not deposited an acceptable replacement bond or other acceptable security within thirty (30) days before the certificate of deposit's maturity date, then the contractor shall be deemed to have authorized and directed the Department to demand immediate payment on the certificate of deposit and upon receipt of the proceeds, retain the same as a deposit of the proceeds of certified funds.

(C) A letter of credit, provided the letter of credit:

(I) Shall have a face amount equal to or greater than four percent (4%) of the total contract amount for the project;

(II) Shall be issued by an FDIC-insured bank with its main office or any branch located in Wyoming;

(III) Shall be payable in current funds or other manner as the Department may determine on sight at the counters of an FDIC insured bank located within the State of Wyoming;

(IV) Shall be on a form of approved by the Department;

(V) Shall be issued with an initial expiration date of not less than one (1) year from the date of its issuance and automatically extended from year to year;

(VI) The issue date shall be ten (10) days before the date on which the deposit is received by the Department; and

(VII) The original letter of credit shall be delivered to the Department.

(1.) If a letter of credit is accepted and retained by the Department and the contractor has not deposited an acceptable replacement surety bond or other acceptable security within thirty (30) days before the letter of credit's expiration date or maturity date, the contractor shall be deemed to have authorized and directed the Department to draw the entire face amount of letter of credit and, upon receipt of the proceeds, retain the same as a deposit of proceeds of a collected cashier's check.

(2.) The contractor may deliver at any time to the Department an acceptable surety bond or other acceptable security to replace a letter of credit retained by the Department. Upon receipt and acceptance of a replacement, the Department shall deliver to the contractor the original letter of credit.

(3.) If the Department determines that the contractor that has deposited a letter of credit under this section in lieu of a surety bond and has complied with W.S. 39-15-301 through W.S.39-15-311 and W.S. 39-16-301 through W.S. 39-16-311, then the Department shall deliver to the contractor the original letter of credit.

(b) Non-Resident Subcontractor Requirements. In addition to all other requirements under Wyoming law, upon being awarded a construction project or any part thereof, any non-resident subcontractor shall:

(i) Report all lower tier subcontractors hired within fifteen (15) calendar days of subcontract award notification, and;

(ii) Remit a completed affidavit of completion form within fifteen (15) days following completion date of the subcontract.

(c) Charges for the labor to alter, improve, or construct real property are not subject to sales/use tax except where imposed by statute under W.S. 39-15-103(a)(i)(K).

(d) Work Performed for Exempt Entities. Contractors performing for exempt entities shall be subject to the sales and use tax on all equipment, materials, fixtures, and supplies purchased by the contractor to perform under the contract.

(e) Contractors shall remit use tax and any sales tax not paid to a vendor to the Department by the last day of the month following the month in which a purchase is made.

(f) The Department shall refund any excess retainage withheld from a nonresident subcontractor to the subcontractor if the retainage has been remitted to the Department and exceeds sales or use tax owed by that subcontractor.

Section 11. Motor Vehicles.

(a) Tax Rate for Purchases. The appropriate tax rate on the purchase of a motor vehicle shall be composed of state sales or use taxes and applicable county option sales or use taxes. The appropriate tax rate shall be determined by the tax rate in effect in the county of the purchaser's principal residence as indicated on the owner's driver's license or other government issued identification on the date of the sale. If the purchaser does not have a driver's license or other government issued identification, the purchaser shall provide a statement of residency or principal place of business on a form prescribed by the Department. The tax rate for business entities paying sales and use tax on motor vehicles is based on where the business's main office, branch, or primary base of operations is located in Wyoming.

(b) Any purchase option exercised at the end of a lease agreement is a separate taxable transaction.

(c) Wyoming Sales/Use Tax Statement. All vendors of motor vehicles shall provide purchasers with a copy of the original sales invoice and a copy of the form titled "Wyoming Sales/Use Tax Statement" as prescribed by the Department. To calculate the tax owed, the vendor shall assess the rate in effect in the county of the purchaser's residence. An additional copy of the statement shall be furnished by the vendor to the County Clerk.

(d) The sale of motor vehicles to Native Americans is exempt if possession is passed to the purchaser on the Wind River Indian Reservation.

Section 12. Specific Taxability Issues.

(a) Admission Charges.

(i) Persons or firms who sell tickets for admission to a place of amusement, entertainment, recreation, games, or athletic events shall be responsible for licensing and collecting and remitting sales tax on the admission charges. Admission charges shall include charges commonly referred to as "cover charges" when these charges are paid for entrance into a place of amusement, entertainment, recreation, games or athletic events. Public schools are not municipally or county-owned facilities and shall collect sales tax on admissions unless exempted under W.S. 39-15-105.

(ii) To ensure the collection of the tax on admissions when the place of amusement, entertainment, recreation, games, or athletic events has been leased or rented, the lessor may collect and remit the tax on the admissions to the Department. The lessee's name shall appear on the record of remittance. In the event the lessor chooses not to assume the responsibility of collecting the tax, the lessee shall register with the Department and collect all applicable taxes as required under Wyoming law and these rules.

(b) Advertising. Printed advertising material to be used or distributed in direct mail advertising within Wyoming shall be taxable to the purchaser. Printed advertising material to be used or distributed in direct mail advertising outside Wyoming shall not be taxable as interstate sales, provided the purchaser does not take possession in Wyoming of the publication from the printer or vendor. When the printer retains possession of the publication and mails the publication for the purchaser, he/she shall retain evidence establishing the number of addresses outside Wyoming in the total mailing. This evidence shall be in the form of an affidavit specifically identifying the number of addresses outside Wyoming.

(c) Auctioneers and Selling Agents. Auctioneers and selling agents shall be considered vendors. As agents for unknown or undisclosed principals, auctioneers, or selling agents are required to have a sales tax license to conduct sales upon which the tax has been imposed and are responsible for the correct collection and remittance of the tax on the sales.

(d) Computer Hardware and Software.

(i) The sale of prewritten computer software is taxable regardless of whether sold on tangible storage media or delivered by the seller electronically.

(ii) The service of repairing, altering, or improving computer hardware, computer software, or canned software shall be subject to the sales tax. Charges for installation of software packages shall also be subject to the tax.

(A) The service of creating custom software for a person shall not be subject to the sales tax. The person performing the service shall be considered the consumer of all tangible personal property or services purchased to perform the service.

(e) Concessions. The operator of any business or concession operating as a vendor shall collect and remit any taxes to the Department, regardless of location. The Department may ask event organizers for a list of vendors operating at concession events with multiple vendors in an effort to reduce administrative time and burden to the vendors.

(f) Credit, Contract, or Conditional Sales. Sales and use tax shall be collected at the time of the sale or purchase transaction of tangible personal property or taxable services sold on a credit basis if title or possession of the property pass at the time of the transaction. If title passes at a future date, the vendor shall collect sales tax on each payment that portion of the total tax bears to the purchase price.

(g) Demurrage. Demurrage charges made by vendors selling acetylene, oxygen, nitrogen, hydrogen, helium, and similar gaseous products in returnable containers shall not be subject to the sales tax.

(h) Detailing. Vehicle detailing services shall be subject to the sales tax. This includes washing, drying, vacuuming, waxing, polishing, and other similar services provided by the vendor. The purchase of supplies to be used to perform the services shall be considered wholesale purchases and not subject to the sales or use tax.

(i) Drop Shipments/Third Party Sales. Drop Shipments will be considered two separate transactions. This supply chain technique is generally between a supplier, a vendor, and an end customer. The first transaction is between the supplier and the vendor, even if the vendor does not directly receive the product. This first transaction is considered a wholesale for resale transaction, and the vendor may provide an exemption certificate to the supplier. The second transaction is between the vendor and the end consumer. This transaction shall be subject to any applicable taxes if shipped to a Wyoming customer.

(j) Exterminators. Services performed for the extermination of plant, insect, or animal life shall not be subject to the sales tax. Purchases of equipment, materials, supplies, and services shall be subject to the sales or use tax when purchased by the person providing the extermination service.

(k) Financial Institutions.

(i) Banks, savings and loan associations, trust companies, finance and loan companies, and other similar companies shall be subject to the sales and use tax on tangible personal property purchased or leased and used to conduct their business. The institutions shall collect and remit sales tax on their retail sales of tangible personal property.

(ii) Federally-chartered credit unions and federal land banks shall be exempt from the sales or use tax on purchases and services used to conduct their business. The institutions shall collect and remit sales tax on their retail sales of tangible personal property or services which are subject to the sales tax.

(l) Garages and Service Stations. The sales price for all services performed upon tangible personal property by garages and service stations shall be subject to sales tax. Purchases of consumable materials and supplies such as solvents, lubricants and parts, which are necessary in performing taxable services provided by garages and service stations, shall be exempted from the tax as wholesale for resale purchases.

(m) Garbage and Chemical Toilets or Sanitary Services. Charges made for garbage hauling, latrine or sanitary services, and similar services shall not be subject to the sales tax. The person providing the container, latrine, or similar container for use in the sanitary or latrine service shall pay the sales or use tax on the purchase of the container.

(n) Goods Damaged in Transit. Where title to or possession of tangible personal property subject to sales tax has passed to the purchaser and is damaged in transit, the vendor shall collect the sales tax from the purchaser on the full sales price. Where title to or possession of tangible personal property shipped by a vendor to a purchaser has not passed to the purchaser and the goods are damaged or destroyed during transit, the taxability of the vendor's reimbursement shall depend upon whether the reimbursement for the damages or destruction allows title or possession to the property to pass to the carrier or the carrier's insurance firm. If title or possession to the tangible personal property passes to the carrier or the carrier's insurance firm as in a retail sale as defined by W.S. 39-15-101(a)(vi), the transfer shall be subject to the tax. The amount of the reimbursement shall establish the tax base of the transaction. If title to the tangible personal property passes to the carrier or the carrier's insurance firm in a wholesale sale, the transfer shall be exempt from sales tax.

(o) Laundry, Dry Cleaning, Pressing, and Dyeing. The total charge made for performing the service of laundering, dry cleaning, or pressing, and dyeing shall be subject to the sales tax. Sales of materials and supplies which are necessary in performing the taxable service such as detergents, starch, and cleaning solvent shall be considered wholesale purchases or sales.

(p) Lodging.

(i) The total amount charged to transient guests for board or room or both is subject to the sales tax and any applicable lodging tax. The taxable sales price shall include all charges made for all services and supplies furnished in connection with the lodging service. This charge shall include charges for such services as room service meals.

(ii) Charges made to use facilities other than for lodging services, such as meeting rooms, sample rooms, and ballrooms, shall not be subject to the sales tax.

(iii) The provider of a lodging service shall be considered to be the end consumer of electricity, fuel, linens, cleaning supplies, towels, furniture, and other items of tangible personal property necessary for the maintenance of the establishment. Purchases of these items shall be subject to the sales or use tax.

(iv) Paper cups, hand soap, toilet tissue, paper towels, and similar items furnished to transient guests without additional charge shall be considered to be purchases for resale and shall not be subject to sales or use tax. Beverages, food, and other convenience items provided to transient guests shall be considered purchases for resale and not subject to the sales or use tax if the cost of the items is part of the overall charge for lodging services.

(v) Purchases of intrastate telephone services by the provider of a lodging service shall be subject to the sales tax. The vendor shall pay tax on the difference between the cost of intrastate telephone service and the total fees collected from customers for intrastate telephone calls.

(vi) Where a guest (individual or corporate) contracts for or leases a room for a term of thirty (30) continuous days, or more, there is no sales tax due. In this arrangement, the first twenty-nine (29) days are not taxable because of the intent to lease for thirty (30) or more continuous days. If, for example, a corporation were to rent a room for a term of thirty (30) continuous days or more and rotate employees during the term, it qualifies as nontaxable because the corporation is considered the guest. The contract, lease, or correspondence should clearly indicate this arrangement. If the lodging service ends before the thirtieth (30th) day, the sales tax and applicable lodging tax is due.

(vii) When a transient guest books a lodging service through an online travel company, the online travel company shall be responsible for reporting any applicable taxes on the entire cost of the lodging stay.

(viii) Travel agents, tour bus operators, and similar service providers shall be considered the end consumers of any taxable services provided by the travel industry and shall be charged any applicable taxes as long as they are not considered a marketplace facilitator.

(ix) Sales of lodging services by guides and outfitters are exempt from excise tax imposed by W.S. 39-15-204(a)(ii).

(q) Meals Not Regularly Served to the Public. Meals sold or furnished by hospitals to patients and staff, by schools to students and staff, and nursing homes to occupants and staff shall not be subject to the sales tax if the establishments do not hold themselves out as selling to the public at large. The establishments shall be considered to be purchasers of the food and shall pay sales or use tax on those purchases, unless otherwise exempt. Meals sold by senior citizen centers shall not be subject to the sales tax.

(i) All establishments of any nature which sell and serve food and meals to the general public shall collect tax on the amount charged for all meals sold. Tax shall not be collected on food or meals furnished without charge to employees. Napkins, disposable food containers, and similar consumable items sold with the food at no additional charge to the customer shall be considered to be wholesale for resale purchases.

(r) Meat Cutting and Butchering Services. Meat cutting and butchering services shall be considered to be services performed upon tangible personal property and subject to the sales tax.

(s) Nicotine Products. Retail sales of all nicotine products shall be subject to the sales tax in addition to the tax imposed by W.S. 39-18-103.

(t) Oil and Gas Services.

(i) All seismographic and geophysical surveying, stratigraphic testing, coring, logging, and testing calculated to reveal the existence of geologic conditions favorable to the accumulation of oil or gas are not taxable.

(ii) Invoices billing for oil and gas field services shall indicate if the billed services are performed before or after setting and cementing of production casing, or if production casing is not set as in the case of an open hole completion, after the completion of the underreaming, or the attaining of total depth of the oil or gas well. The invoices shall also state if the billed services are performed within the boundaries of the well site. The invoice shall separately state the taxable and nontaxable services or the entire invoice shall be subject to the sales tax.

(iii) Any person engaged in the business of selling oil or gas services within the well site is a vendor and shall license and report their taxable and non-taxable services to the Department. The tax associated with taxable services shall be collected and remitted to the Department unless the vendor receives the proper information required a direct pay permit holder.

(iv) The Department may use the date that production casing was installed or the total depth date as found on the Wyoming Oil and Gas Conservation Commission website if the date of the taxable phase cannot be determined using documentation provided by the vendor.

(u) Photography, Photo Developing, and Enlarging. The sales price paid for photographs, photo equipment and supplies, photography and photo developing, and printing shall be subject to the sales tax. Materials and supplies such as paper and chemicals consumed in the process of producing photographs intended for resale shall be exempt from the sales tax.

(v) Printers. Printers produce tangible personal property. The printer's retail sale shall be subject to the sales tax. Printers shall not deduct labor or service charges from the tax base of the sale. When printers purchase cards or envelopes that are stamped with postage, the printers shall collect and remit sales tax on the total sales price less the amount of the postage. All charges made for copying or reproduction services shall be subject to the sales tax.

(w) Purchases by Businesses. Purchases by businesses and professional persons of equipment, tools, and supplies for use in conducting their businesses or professions are the end consumer and shall be subject to the sales or use tax.

(x) Rentals or Leases. The gross rental paid for a lease or contract where possession of tangible personal property transfers, and the transfer would be taxable if a sale occurred, shall be subject to the sales tax. The owner of the property shall be considered the vendor and shall charge, collect, and remit the sales tax on each rental or lease payment. The purchase of tangible personal property which shall be exclusively held for rental, lease, or sale shall be considered a wholesale purchase and shall be exempt from the sales tax.

(y) Repairs, Alterations, and Improvements. Labor or service charges for the repair, alteration, or improvement of tangible personal property as well as charges for materials, supplies, and fabrication used in rendering services, shall be subject to the sales tax. The purchase of materials, supplies, and fabrication which become an ingredient of the repair, alteration, or improvement of tangible personal property shall be considered wholesale sales.

(z) Specified Digital Products. The sale of specified digital products is subject to sales tax when the product is transferred for permanent use to the taxpayer. The sale of digital code shall be taxed as the sale of a specified digital product. For the purpose of this rule, "digital code" means a code which provides the purchaser with a right to obtain one or more specified digital products. Digital code may be obtained by any means, including email or the sale of a coded card regardless of its designation as "song code", "video code", or "book code".

(aa) State and Subdivisions Furnishing Copies of Official Documents. State of Wyoming agencies or political subdivisions furnishing copies of laws, rules and regulations, official documents, or other records in the custody of the agencies for a charge shall not collect sales tax on the same.

(bb) Telephone Services. All rentals of equipment or services incidental to intrastate telephone services including but not limited to, the lease or rental of tangible personal property and access to a telephone transmission system, shall be subject to the sales tax.

(cc) Prepaid calling cards, telephone debit cards, or other similar items which entitle the purchaser to receive telephone services shall be considered tangible personal property. The retail sale or purchase of cards shall be subject to the sales and use tax.

(dd) Vending Machines. Vending machine sales of tangible personal property, except postage stamps and food for domestic home consumption, shall be subject to the sales tax. Prepared food sold in a vending machine shall remain taxable.

(i) Complete records shall be kept by the vending machine vendor showing the location of each machine operated by the vendor during each monthly period, its serial number, and the amount of revenue taken from the machine during each monthly period.

(ee) Warranties.

(i) Standard or mandatory warranties and maintenance contracts provided with the purchase of tangible personal property by the manufacturer or vendor shall be included in the taxable sales price of the tangible personal property.

(A) Repairs, alterations, or improvements performed upon tangible personal property under a standard warranty shall not be subject to the sales tax.

(ii) Extended warranties, service and maintenance contracts, or similar agreements which are sold for an additional and separate cost and provide additional services or extend the timeframe of service coverage shall not be subject to the sales tax.

(A) Repairs, alterations, or improvements performed upon tangible personal property under an extended warranty, service contract, or similar agreement shall be subject to the sales tax.

(I) The consumer shall be liable for the tax on repair services not covered by the agreement. The issuer of the agreement shall be liable for the sales tax on the repair charges covered by the extended warranty.

(II) A contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software, or both shall be subject to the sales tax.