

ENROLLED ACT NO. 41, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

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

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

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

ARTICLE 5
SALES FROM REMOTE SELLERS

39-15-501. Sales from remote sellers.

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

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

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

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

(c) The filing of a declaratory judgment action under subsection (b) of this section operates as an injunction during the pendency of the action prohibiting the department or any other state entity from enforcing the obligation in subsection (a) of this section against any seller who does not affirmatively consent or otherwise remit sales tax on a voluntary basis.

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

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

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refund or recovery of taxes, penalties or interest for any other reason including mistake of fact or a miscalculation of the applicable tax.

(f) No seller who remits sales tax voluntarily or otherwise under this section shall be liable to any person who claims that the sales tax has been over collected if any provision of this act is later deemed unlawful.

(g) Nothing in this section shall be construed to affect the obligation of any purchaser in this state to remit use tax for any applicable transaction.

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

39-15-101. Definitions.

(a) As used in this article:

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

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

ORIGINAL HOUSE
BILL NO. HB0019

ENGROSSED

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Section 4. This act is effective July 1, 2017.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk