

HOUSE BILL NO. HB0067

Data processing center-sales/use tax exemption.

Sponsored by: Representative(s) Illoyay, Anderson, R.,
Brown, Buchanan, Byrd, Carson, Madden,
Millin, Patton, Pedersen and Throne and
Senator(s) Anderson, J., Burns, Cooper,
Hunnicut, Jennings, Larson, Martin and Ross

A BILL

for

1 AN ACT relating to taxation and revenue; providing a sales
2 and use tax exemption on certain data processing centers
3 and equipment as specified; providing a definition;
4 providing qualifications; providing reporting requirements;
5 and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 39-15-101(a) by creating a new
10 paragraph (xliv), 39-15-105(a)(viii) by creating a new
11 subparagraph (S) and (b)(intro) and 39-16-105(a)(viii) by
12 creating a new subparagraph (H) and (b)(intro) are amended
13 to read:

14

15 **39-15-101. Definitions.**

1

2 (a) As used in this article:

3

4 (xliv) "Data processing services center" means a
5 business or business unit which is primarily engaged in
6 providing infrastructure to house a group of network server
7 computers and associated network storage devices in one (1)
8 physical location in order to centralize one (1) or more of
9 the following: storage, management, processing or
10 dissemination of data and information pertaining to a
11 particular business, taxonomy or body of knowledge. The
12 business may provide specialized hosting activities such as
13 web hosting, streaming services or application hosting;
14 application service provisioning; or general time-share
15 mainframe facilities to itself or to its clients. The
16 client of a data processing services center may be a person
17 or company not affiliated with the data processing services
18 center or other business unit within the business entity
19 which owns the data processing services center.

20

21 **39-15-105. Exemptions.**

22

23 (a) The following sales or leases are exempt from the
24 excise tax imposed by this article:

1

2 (viii) For the purpose of exempting sales of
3 services and tangible personal property as an economic
4 incentive, the following are exempt:

5

6 (S) The sales price paid for the purchase
7 or rental of computer equipment including computers,
8 servers, monitors, keyboards, storage devices and other
9 peripherals, racking systems, cabling and trays that are
10 necessary for the operation of a data processing services
11 center when the aggregate purchase of the qualifying
12 equipment exceeds two million dollars (\$2,000,000.00) in
13 any calendar year. For the purpose of claiming this
14 exemption, the purchaser shall demonstrate to the
15 department that he:

16

17 (I) Has a physical location in this
18 state where the exempt equipment purchased shall be
19 maintained and operated until the equipment is scheduled
20 for replacement or until it has reached the end of its
21 serviceable life;

22

23 (II) Shall make an initial total
24 capital asset investment in a physical location in this

1 state of not less than five million dollars (\$5,000,000.00)
2 or has made a capital investment in a physical location in
3 this state of not less than five million dollars
4 (\$5,000,000.00) in the five (5) years immediately preceding
5 the effective date of this subparagraph;

6
7 (III) Has retained adequate
8 documentation to demonstrate that the total purchase of
9 qualifying computer equipment exceeds the annual threshold
10 of two million dollars (\$2,000,000.00);

11
12 (IV) Has received annual certification
13 from the Wyoming business council that the purchaser has
14 created or will create a number of jobs in Wyoming that is
15 appropriate to the size and stage of development of the
16 data servicing center as determined by the Wyoming business
17 council;

18
19 (V) Will accrue the excise tax on
20 purchase of otherwise qualifying equipment where the annual
21 threshold of two million dollars (\$2,000,000.00) was not
22 met. The tax shall be remitted to the department not later
23 than the end of January immediately following the end of
24 the calendar year where the threshold was not met to avoid

1 the assessment of penalty and interest on any amount of tax
2 due;

3
4 (VI) Shall keep adequate written
5 records and documentation in accordance with department
6 rule and regulation to show compliance with the
7 requirements of this subparagraph. If the purchaser does
8 not meet all the requirements of this subparagraph, any tax
9 owed shall be remitted to the department not later than the
10 end of January immediately following the end of the
11 calendar year in which the requirements were not met.

12
13 (b) The Wyoming business council and the department
14 of revenue shall jointly report to the joint revenue
15 interim committee on or before December 1 of each year that
16 the exemption provided by subparagraph (a)(viii)(O) ~~or~~ (R)
17 or (S) of this section is in effect. The report shall
18 evaluate the cumulative effects of each exemption that is
19 in effect from initiation of the exemption and shall
20 include:

21
22 **39-16-105. Exemptions.**

23

1 (a) The following purchases or leases are exempt from
2 the excise tax imposed by this article:

3

4 (viii) For the purpose of exempting sales of
5 services and tangible personal property as an economic
6 incentive, the following are exempt:

7

8 (H) The sales price paid for the purchase
9 or rental of computer equipment including computers,
10 servers, monitors, keyboards, storage devices and other
11 peripherals, racking systems, cabling and trays that are
12 necessary for the operation of a data processing services
13 center when the aggregate purchase of the qualifying
14 equipment exceeds two million dollars (\$2,000,000.00) in
15 any calendar year. For the purpose of claiming this
16 exemption, the purchaser shall demonstrate to the
17 department that he:

18

19 (I) Has a physical location in this
20 state where the exempt equipment purchased shall be
21 maintained and operated until the equipment is scheduled
22 for replacement or until it has reached the end of its
23 serviceable life;

24

1 (II) Shall make an initial total
2 capital asset investment in a physical location in this
3 state of not less than five million dollars (\$5,000,000.00)
4 or has made a capital investment in a physical location in
5 this state of not less than five million dollars
6 (\$5,000,000.00) in the five (5) years immediately preceding
7 the effective date of this subparagraph;

8
9 (III) Has retained adequate
10 documentation to demonstrate that the total purchase of
11 qualifying computer equipment exceeds the annual threshold
12 of two million dollars (\$2,000,000.00);

13
14 (IV) Has received annual certification
15 from the Wyoming business council that the purchaser has
16 created or will create a number of jobs in Wyoming that is
17 appropriate to the size and stage of development of the
18 data servicing center as determined by the Wyoming business
19 council;

20
21 (V) Will accrue the excise tax on
22 purchase of otherwise qualifying equipment where the annual
23 threshold of two million dollars (\$2,000,000.00) was not
24 met. The tax shall be remitted to the department not later

1 than the end of January immediately following the end of
2 the calendar year where the threshold was not met to avoid
3 the assessment of penalty and interest on any amount of tax
4 due;

5 (V) Shall keep adequate written
6 records and documentation in accordance with department
7 rule and regulation to show compliance with the
8 requirements of this subparagraph. If the purchaser does
9 not meet all the requirements of this subparagraph, any tax
10 owed shall be remitted to the department not later than the
11 end of January immediately following the end of the
12 calendar year in which the requirements were not met.

13
14 (b) The Wyoming business council and the department
15 of revenue shall jointly report to the joint revenue
16 interim committee on or before December 1 of each year that
17 the exemption provided by subparagraph (a)(viii)(D), ~~or~~ (G)
18 or (H) of this section is in effect. The report shall
19 evaluate the cumulative effects of each exemption that is
20 in effect from initiation of the exemption and shall
21 include:
22

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

5

6

(END)