

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

AN ACT relating to taxation and revenue; providing a sales and use tax exemption on certain data processing services centers and equipment as specified; providing definitions; providing qualifications; providing reporting requirements; and providing for an effective date.

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

**Section 1.** W.S. 39-15-101(a) by creating new paragraphs (xliv) and (xlv), 39-15-105(a)(viii) by creating a new subparagraph (S) and (b)(intro) and 39-16-105(a)(viii) by creating a new subparagraph (H) and (b)(intro) are amended to read:

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

(a) As used in this article:

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

ORIGINAL HOUSE  
BILL NO. 0067

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

(xlv) "Qualifying computer equipment" means tangible personal property eligible for the exemption provided by W.S. 39-15-105(a)(viii)(S). The term shall include computers, servers, monitors, keyboards, storage devices and other peripherals, racking systems, cabling and trays necessary for the operation of the data processing services center.

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

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

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

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

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

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

ORIGINAL HOUSE  
BILL NO. 0067

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

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

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

(IV) Has received annual certification from the Wyoming business council that the purchaser has created or will create a number of jobs in Wyoming that is appropriate to the size and stage of development of the data processing services center as determined by the Wyoming business council;

(V) Will accrue the excise tax on purchase of otherwise qualifying computer equipment where the annual threshold of two million dollars (\$2,000,000.00) was not met. The tax shall be remitted to the department not later than the end of January immediately following the end of the calendar year where the threshold was not met to avoid the assessment of penalty and interest on any amount of tax due;

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

ORIGINAL HOUSE  
BILL NO. 0067

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

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

**39-16-105. Exemptions.**

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

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

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

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

ORIGINAL HOUSE  
BILL NO. 0067

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

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

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

(IV) Has received annual certification from the Wyoming business council that the purchaser has created or will create a number of jobs in Wyoming that is appropriate to the size and stage of development of the data processing services center as determined by the Wyoming business council;

(V) Will accrue the excise tax on purchase of otherwise qualifying computer equipment where the annual threshold of two million dollars (\$2,000,000.00) was not met. The tax shall be remitted to the department not later than the end of January immediately following the end of the calendar year where the threshold was not met to avoid the assessment of penalty and interest on any amount of tax due;

(V) Shall keep adequate written records and documentation in accordance with department rule and regulation to show compliance with the requirements of this subparagraph. If the purchaser does not meet all the requirements of this subparagraph, any tax owed shall be remitted to the department not later than the

ORIGINAL HOUSE  
BILL NO. 0067

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

end of January immediately following the end of the  
calendar year in which the requirements were not met.

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

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

(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

ORIGINAL HOUSE  
BILL NO. 0067

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION