



DEPARTMENT OF REVENUE

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October 27, 2009

Scott Peterson, Executive Director
Streamlined Sales Tax Governing Board, Inc
4205 Hillsboro Pike, Suite 305
Nashville TN 37215

Re: Wyoming's response to 2009 recertification analysis

Dear Mr. Peterson,

The Wyoming Department of Revenue has reviewed the analysis performed by the Streamlined Sales Tax staff for the 2009 recertification of Wyoming to the Streamlined Sales Tax Agreement. Below is our response to the items raised in the analysis

Issue 1

There is no provision for sourcing of ancillary services.

Wyoming's Response

We were unaware of the omission of the sourcing provision for ancillary services from our current sourcing rules however the department has administered the sourcing of ancillary services based on the primary place of use since our sourcing rules were passed. Since Wyoming only taxes "intrastate telecommunications" this type of administration of ancillary services is consistent with our sourcing of general telecommunications. We will provide this provision in the upcoming legislative session to clarify the state's intent regarding this oversight.

Issue 2

The statute cited for sourcing of prepaid wireless calling service only addresses prepaid calling service. There is no provision for sourcing prepaid wireless calling service.

Wyoming's Response

Again we were unaware of the omission of the sourcing provision for prepaid wireless calling services from our current sourcing rules however the department has

administered the sourcing of these services based on section 310 as we view these services as being rendered the same as we would view a sale of tangible personal property. We will provide this provision in the upcoming legislative session to clarify the state's intent regarding our oversight of this requirement.

Issue 3

The taxability matrix shows delivery charges for transportation, shipping, postage and similar charges and for direct mail as not included in the definition of sales price. The definitions for sales price and delivery charges in the statutes include such items.

Wyoming's Response

Delivery charges are included in sales price but are specifically exempted as a transportation charge as long as it is separately stated. The matrix is correct.

Issue 4

The state currently taxes specified digital products as TPP. Effective 1/1/2010, the statutes define specified digital products and the individual products under that category. There is no new statute specifically taxing them however. To continue taxing them would mean they are being taxed as TPP absent a law change.

Wyoming's Response

Specified Digital Products are currently taxed as TPP but once the definition is valid on January 1, 2010 they will be specifically excluded from taxation until the legislature decides whether they want to tax them or not. This is being done to provide the legislature time to review this issue.

Issue 5

The taxability matrix shows intrastate paging as not taxable and has a comment that paging is not included in the definition of taxable communication service. The statute taxes intrastate telecommunications service and paging is included in the definition of telecommunications service in the Agreement.

Wyoming's Response

Wyoming specifically exempts them under 39-15-105(a)(viii)(K). We also disagree that the current definition of "paging service" in the agreement specifically includes both one way and two way paging. It merely refers to the transmission of coded radio signals for the purpose of activating specific pagers. This would seem to describe a one way transmission. Nowhere in the definition does it describe a two way communication. We believe the states exemption is valid.

While the State of Wyoming's current statutes do not specifically state what is required in issues 1 and 2 above under the agreement we are responding immediately to these issues and are currently administering these issues as required by the agreement. It is important to understand that these issues have not been presented to the Governing Board in the past and we hope the Board will allow us the time to remedy these minor concerns. We would hope for a positive report to the Governing Board that Wyoming would be certified as being in substantial compliance with the provisions of the agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel W. Noble". The signature is written in a cursive style with a large initial "D".

Daniel W. Noble, Administrator
Department of Revenue, Excise Tax Division