

SENATE FILE NO. SF0020

Sales and use tax remedy revisions.

Sponsored by: Senator(s) Peterson

A BILL

for

1 AN ACT relating to sales and use tax; providing that sales
2 and use tax erroneously collected from a taxpayer shall not
3 be refunded or credited to the vendor except as specified;
4 repealing a conflicting provision; and providing for an
5 effective date.

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

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9 **Section 1.** W.S. 39-15-107(a)(ix) and (b)(vii),
10 39-15-109(c)(i), (d)(i) and (iv) and 39-16-109(c)(i),
11 (d)(i) and (ii) are amended to read:

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13 **39-15-107. Compliance; collection procedures.**

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15 (a) Returns, reports and preservation of records.

16 The following shall apply:

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(ix) As soon as practicable after the return is filed the department shall examine it and if it appears from the information on the return the tax to be remitted is incorrect, ~~it~~ the tax shall be recomputed. If the amount ~~paid~~ remitted exceeds that which is due from the recomputed return, the excess shall be refunded ~~to the vendor or person who submitted the return~~ or credited ~~against any subsequent liability of the vendor or person who submitted the return~~ as provided in W.S. 39-15-109(c) and (d);

(b) Payment. The following shall apply:

(vii) If any vendor collects a tax in excess of that imposed by this article it shall be remitted to the department after making reasonable attempts to identify and refund the excess tax to the taxpayer that originally paid the tax;

39-15-109. Taxpayer remedies.

(c) Refunds. The following shall apply:

1 (i) Any tax, penalty or interest which has been
2 erroneously paid, ~~collected or~~ computed or remitted to the
3 department by a vendor shall either be credited against any
4 subsequent tax liability of the vendor or refunded. If a
5 vendor erroneously collects taxes from a taxpayer and
6 remits those taxes to the department, the vendor may seek a
7 refund or credit against subsequent tax liability only
8 after the vendor has refunded the erroneously collected tax
9 to the taxpayer that originally paid the tax to the vendor.
10 If the taxpayer that originally paid the tax to the vendor
11 cannot be identified, the tax shall not be refunded or
12 credited to the vendor. No credit or refund shall be
13 allowed after three (3) years from the date of overpayment.
14 The receipt of a claim for a refund by the department shall
15 toll the statute of limitations. All refund requests
16 received by the department shall be approved or denied
17 within ninety (90) days of receipt. Any refund or credit
18 erroneously made or allowed may be recovered in an action
19 brought by the attorney general in any court of competent
20 jurisdiction;

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22 (d) Credits. The following shall apply:

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1 (i) Any tax, penalty or interest which has been
2 erroneously paid, ~~collected or~~ computed or remitted to the
3 department by a vendor shall either be credited against any
4 subsequent tax liability of the vendor or refunded. If a
5 vendor erroneously collects taxes from a taxpayer and
6 remits those taxes to the department, the vendor may seek a
7 credit against subsequent tax liability or a refund only
8 after the vendor has refunded the erroneously collected tax
9 to the taxpayer that originally paid the tax to the vendor.
10 If the taxpayer that originally paid the tax to the vendor
11 cannot be identified, the tax shall not be credited or
12 refunded to the vendor. No credit or refund shall be
13 allowed after three (3) years from the date of overpayment.
14 The receipt of a claim for a refund by the department shall
15 toll the statute of limitations. Any refund or credit
16 erroneously made or allowed may be recovered in an action
17 brought by the attorney general in any court of competent
18 jurisdiction;

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20 (iv) The taxpayer or vendor is entitled to
21 receive an offsetting credit for any overpaid excise tax
22 identified by an audit that is within the scope of the
23 audit period, without regard to the limitation period for

1 requesting refunds. This paragraph shall not apply to any
2 tax which was erroneously collected from a taxpayer and
3 remitted by a vendor unless the auditor can determine that
4 the erroneously collected taxes have been refunded to the
5 taxpayer that originally paid the tax to the vendor.

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7 **39-16-109. Taxpayer remedies.**

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9 (c) Refunds. The following shall apply:

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11 (i) Any tax, penalty or interest which has been
12 erroneously paid, ~~collected or~~ computed or remitted to the
13 department by a vendor shall on department approval be
14 credited against any subsequent tax liability from the
15 payee or may be refunded. If a vendor erroneously collects
16 taxes from a taxpayer and remits those taxes to the
17 department, the vendor may seek a refund or credit against
18 subsequent tax liability only after the vendor has refunded
19 the erroneously collected tax to the taxpayer that
20 originally paid the tax to the vendor. If the taxpayer that
21 originally paid the tax to the vendor cannot be identified,
22 the tax shall not be refunded or credited to the vendor. No
23 credit or refund shall be allowed after three (3) years

1 from the date of overpayment. The receipt of a claim for a
2 refund by the department shall toll the statute of
3 limitations. All refund requests received by the department
4 shall be approved or denied within ninety (90) days of
5 receipt. Any refund or credit erroneously made or allowed
6 may be recovered in an action brought by the attorney
7 general in a court of competent jurisdiction in Laramie
8 county, Wyoming.

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10 (d) Credits. The following shall apply:

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12 (i) Any tax, penalty or interest which has been
13 erroneously paid, ~~collected or~~ computed or remitted to the
14 department by a vendor shall on department approval be
15 credited against any subsequent liability from the payee or
16 may be refunded. If a vendor erroneously collects taxes
17 from a taxpayer and remits those taxes to the department,
18 the vendor may seek a credit against subsequent tax
19 liability or a refund only after the vendor has refunded
20 the erroneously collected tax to the taxpayer that
21 originally paid the tax to the vendor. If the taxpayer that
22 originally paid the tax to the vendor cannot be identified,
23 the tax shall not be credited or refunded to the vendor.

1 Any refund or credit erroneously made or allowed may be
2 recovered in an action brought by the attorney general in a
3 court of competent jurisdiction in Laramie county, Wyoming;

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5 (ii) The taxpayer or vendor is entitled to
6 receive an offsetting credit for any overpaid excise tax
7 identified by an audit that is within the scope of the
8 audit period, without regard to the limitation period for
9 requesting refunds. This paragraph shall not apply to any
10 tax which was erroneously collected from a taxpayer and
11 remitted by a vendor unless the auditor can determine that
12 the erroneously collected taxes have been refunded to the
13 taxpayer that originally paid the tax to the vendor;

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15 **Section 2.** W.S. 39-15-109(d)(iii) is repealed.

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17 **Section 3.** This act is effective July 1, 2016.

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(END)