

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), 39-15-109(c)(i),
10 (d)(i) and (iv) and 39-16-109(c)(i), (d)(i) and (ii) are
11 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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39-15-109. Taxpayer remedies.

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(c) Refunds. 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);

1 to the taxpayer that originally paid the tax to the vendor.
2 If the taxpayer that originally paid the tax to the vendor
3 cannot be identified, the tax shall not be refunded or
4 credited to the vendor. No credit or refund shall be
5 allowed after three (3) years from the date of overpayment.
6 The receipt of a claim for a refund by the department shall
7 toll the statute of limitations. All refund requests
8 received by the department shall be approved or denied
9 within ninety (90) days of receipt. Any refund or credit
10 erroneously made or allowed may be recovered in an action
11 brought by the attorney general in any court of competent
12 jurisdiction;

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14 (d) Credits. The following shall apply:

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16 (i) Any tax, penalty or interest which has been
17 erroneously paid, ~~collected or~~ computed or remitted to the
18 department by a vendor shall either be credited against any
19 subsequent tax liability of the vendor or refunded. If a
20 vendor erroneously collects taxes from a taxpayer and
21 remits those taxes to the department, the vendor may seek a
22 credit against subsequent tax liability or a refund only
23 after the vendor has refunded the erroneously collected tax

1 to the taxpayer that originally paid the tax to the vendor.
2 If the taxpayer that originally paid the tax to the vendor
3 cannot be identified, the tax shall not be credited or
4 refunded to the vendor. No credit or refund shall be
5 allowed after three (3) years from the date of overpayment.
6 The receipt of a claim for a refund by the department shall
7 toll the statute of limitations. Any refund or credit
8 erroneously made or allowed may be recovered in an action
9 brought by the attorney general in any court of competent
10 jurisdiction;

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12 (iv) The taxpayer or vendor is entitled to
13 receive an offsetting credit for any overpaid excise tax
14 identified by an audit that is within the scope of the
15 audit period, without regard to the limitation period for
16 requesting refunds. This paragraph shall not apply to any
17 tax which was erroneously collected from a taxpayer and
18 remitted by a vendor unless the auditor can determine that
19 the erroneously collected taxes have been refunded to the
20 taxpayer that originally paid the tax to the vendor.

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22 **39-16-109. Taxpayer remedies.**

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1 (c) Refunds. The following shall apply:

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

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2 (d) Credits. The following shall apply:

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4 (i) Any tax, penalty or interest which has been
5 erroneously paid, ~~collected or~~ computed or remitted to the
6 department by a vendor shall on department approval be
7 credited against any subsequent liability from the payee or
8 may be refunded. If a vendor erroneously collects taxes
9 from a taxpayer and remits those taxes to the department,
10 the vendor may seek a credit against subsequent tax
11 liability or a refund only after the vendor has refunded
12 the erroneously collected tax to the taxpayer that
13 originally paid the tax to the vendor. If the taxpayer that
14 originally paid the tax to the vendor cannot be identified,
15 the tax shall not be credited or refunded to the vendor.

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

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

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

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(END)