

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Sales tax on renewable resources equipment.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing for the
2 payment of sales and use tax on certain equipment used to
3 generate electricity from renewable resources as specified;
4 providing for payment of the tax over a period of time as
5 specified; providing for enforcement; and providing for an
6 effective date.

7

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

9

10 **Section 1.** W.S. 39-15-107.4 and 39-16-107.1 are
11 created to read:

12

13 **39-15-107.4 Payment of sales tax by renewable**
14 **resources electric generation.**

15

16 (a) Sales tax on the sale of equipment used to
17 generate electricity from renewable resources imposed under
18 W.S. 39-15-104 and any optional sales tax imposed under

1 W.S. 39-15-203 may, pursuant to a written agreement between
2 the taxpayer and the department of revenue as approved by
3 the attorney general, be payable to the department over a
4 period of not more than ten (10) years from the date the
5 sales tax is first due and payable. As used in this
6 section, "renewable resources" means as provided by W.S.
7 39-15-105(a)(viii)(N).
8

9 (b) Any election to pay the sales tax over a period
10 of not more than ten (10) years is subject to the following
11 conditions:
12

13 (i) Payment shall be made in equal annual
14 installments;
15

16 (ii) The department and the taxpayer shall agree
17 in writing, as approved by the attorney general, on the
18 total amount of tax which shall be paid and the amount of
19 the annual installments;
20

21 (iii) The annual installments shall include
22 principal and interest at an annual rate as provided by
23 W.S. 39-15-108(b)(i);
24

25 (iv) The annual installment of the tax payment
26 paid over the period of time shall only include the amount
27 of sales tax owed to the department for the state of
28 Wyoming's share of sales tax imposed under W.S. 39-15-104
29 and distributed under W.S. 39-15-111. Any amount of sales
30 tax owed to a local government and distributed under W.S.
31 39-15-111 and any optional sales tax imposed by W.S. 39-15-
32 203 shall be paid by the taxpayer when first due. The
33 total payment which the taxpayer may pay over the period
34 not to exceed ten (10) years shall be calculated as
35 follows: Total sales tax payment due less any amount due
36 to a local government, plus interest as provided by
37 paragraph (iii) of this subsection;
38

39 (v) If the department approves a repayment
40 period pursuant to a written agreement, the obligation of
41 the taxpayer to the department shall be secured by a lien
42 from the taxpayer to the department on all installed
43 property subject to the tax, including real and personal
44 property, which lien shall be recorded in the county or
45 counties where the equipment is located and also filed with
46 the secretary of state as a Uniform Commercial Code

1 security interest filing. The lien shall have priority
2 over all other liens, whether or not such liens are filed
3 of record with the county or secretary of state.

4
5 **39-16-107.1 Payment of use tax by renewable resources**
6 **electric generation.**

7
8 (a) Use tax on the purchase of equipment used to
9 generate electricity from renewable resources imposed under
10 W.S. 39-16-104 and any optional use tax imposed under W.S.
11 39-16-203 may, pursuant to a written agreement between the
12 taxpayer and the department of revenue as approved by the
13 attorney general, be payable to the department over a
14 period of not more than ten (10) years from the date the
15 use tax is first due and payable. As used in this section,
16 "renewable resources" means as provided by W.S. 39-16-
17 105(a)(viii)(C).

18
19 (b) Any election to pay the use tax over a period of
20 not more than ten (10) years is subject to the following
21 conditions:

22
23 (i) Payment shall be made in equal annual
24 installments;

25
26 (ii) The department and the taxpayer shall agree
27 in writing, as approved by the attorney general, on the
28 total amount of tax which shall be paid and the amount of
29 the annual installments;

30
31 (iii) The annual installments shall include
32 principal and interest at an annual rate as provided by
33 W.S. 39-16-108(b)(i);

34
35 (iv) The annual installment of the tax payment
36 paid over the period of time shall only include the amount
37 of use tax owed to the department for the state of
38 Wyoming's share of use tax imposed under W.S. 39-16-104 and
39 distributed under W.S. 39-16-111. Any amount of use tax
40 owed to a local government and distributed under W.S. 39-
41 16-111 and any optional use tax imposed by W.S. 39-16-203
42 shall be paid by the taxpayer when first due. The total
43 payment which the taxpayer may pay over the period not to
44 exceed ten (10) years shall be calculated as follows:
45 Total use tax payment due less any amount due to a local

1 government, plus interest as provided by paragraph (iii)
2 of this subsection;

3
4 (v) If the department approves a repayment
5 period pursuant to a written agreement, the obligation of
6 the taxpayer to the department shall be secured by a lien
7 from the taxpayer to the department on all installed
8 property subject to the tax, including real and personal
9 property, which lien shall be recorded in the county or
10 counties where the equipment is located and also filed with
11 the secretary of state as a Uniform Commercial Code
12 security interest filing. The lien shall have priority
13 over all other liens, whether or not such liens are filed
14 of record with the county or secretary of state.

15
16 ***** STAFF COMMENTS *****

17 **The following provisions are provided for**
18 **reference.**

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21 **Section 2.** W.S. 39-15-105(a)(viii)(N) and
22 39-16-105(a)(viii)(C) are amended to read:

23
24 **39-15-105. Exemptions.**

25
26 (a) The following sales or leases are exempt from the
27 excise tax imposed by this article:

28
29 (viii) For the purpose of exempting sales of
30 services and tangible personal property as an economic
31 incentive, the following are exempt:

32
33 (N) Sales of equipment used to generate
34 electricity from renewable resources. As used in this
35 subparagraph, "renewable resources" includes wind
36 generation, solar, biomass, landfill gas, hydro, hydrogen
37 and geothermal energy. The exemption provided by this
38 subparagraph shall be limited to the acquisition of
39 equipment used in a project to make it operational up to
40 the point of interconnection with an existing transmission
41 grid including wind turbines, generating equipment, control
42 and monitoring systems, power lines, substation equipment,
43 lighting, fencing, pipes and other equipment for locating
44 power lines and poles. The exemption shall not apply to
45 tools and other equipment used in construction of a new
46 facility, contracted services required for construction and

1 routine maintenance activities and equipment utilized or
2 acquired after the project is operational. This
3 subparagraph is applicable as follows:
4

5 (I) On and after January 1, 2010, the
6 exemption shall apply to sales of equipment for projects
7 where either the project developer is the landowner for the
8 project prior to January 1, 2010, or where the project
9 developer has, prior to January 1, 2010, entered into a
10 written contract with a landowner that describes the
11 project with specificity, including a description of
12 equipment to be purchased and placed on the landowner's
13 land and has made payment to the landowner under terms of
14 the contract. To be eligible for the exemption, the
15 project developer shall have received all required permits
16 and approvals from all governmental agencies for the
17 development and construction of the project. Evidence of
18 compliance with this subparagraph shall be submitted to the
19 department with the request for an exemption. Equipment
20 eligible for the exemption shall be purchased and delivered
21 within the state of Wyoming on or before December 31, 2011
22 for storage, use or consumption by the developer to qualify
23 for the exemption. The exemption provided under this
24 subdivision of this subparagraph is repealed effective
25 December 31, 2011;
26

27 (II) On and after January 1, 2010, the
28 exemption shall apply to sales of equipment used to
29 generate electricity from renewable resources with a total
30 net rating capacity of not more than twenty-five (25)
31 kilowatts, or where the entire renewable energy system is
32 to be for off-grid use. The exemption provided under this
33 subdivision of this subparagraph is repealed effective June
34 30, 2012.
35

36 **39-16-105. Exemptions.**
37

38 (a) The following purchases or leases are exempt from
39 the excise tax imposed by this article:
40

41 (viii) For the purpose of exempting sales of
42 services and tangible personal property as an economic
43 incentive, the following are exempt:
44

45 (C) Sales of equipment used to generate
46 electricity from renewable resources. As used in this

1 subparagraph, "renewable resources" includes wind
2 generation, solar, biomass, landfill gas, hydro, hydrogen
3 and geothermal energy. The exemption provided by this
4 subparagraph shall be limited to the acquisition of
5 equipment used in a project to make it operational up to
6 the point of interconnection with an existing transmission
7 grid including wind turbines, generating equipment, control
8 and monitoring systems, power lines, substation equipment,
9 lighting, fencing, pipes and other equipment for locating
10 power lines and poles. The exemption shall not apply to
11 tools and other equipment used in construction of a new
12 facility, contracted services required for construction and
13 routine maintenance activities and equipment utilized or
14 acquired after the project is operational. This
15 subparagraph is applicable as follows:

16
17 (I) On and after January 1, 2010, the
18 exemption shall apply to sales of equipment for projects
19 where either the project developer is the landowner for the
20 project prior to January 1, 2010, or where the project
21 developer has, prior to January 1, 2010, entered into a
22 written contract with a landowner that describes the
23 project with specificity, including a description of
24 equipment to be purchased and placed on the landowner's
25 land and has made payment to the landowner under terms of
26 the contract. To be eligible for the exemption, the
27 project developer shall have received all required permits
28 and approvals from all governmental agencies for the
29 development and construction of the project. Evidence of
30 compliance with this subparagraph shall be submitted to the
31 department with the request for an exemption. Equipment
32 eligible for the exemption shall be purchased and delivered
33 within the state of Wyoming on or before December 31, 2011
34 for storage, use or consumption by the developer to qualify
35 for the exemption. The exemption provided under this
36 subdivision of this subparagraph is repealed effective
37 December 31, 2011;

38
39 (II) On and after January 1, 2010, the
40 exemption shall apply to sales of equipment used to
41 generate electricity from renewable resources with a total
42 net rating capacity of not more than twenty-five (25)
43 kilowatts, or where the entire renewable energy system is
44 to be for off-grid use. The exemption provided under this
45 subdivision of this subparagraph is repealed effective June
46 30, 2012.

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Section 3. This act is effective July 1, 2011.

(END)