

## PROPERTY TAXES

### Statutory Background and Basis of Property Valuation

Article 15, Section 1 of the State of Wyoming Constitution, states that "All lands and improvements thereon shall be listed for assessment, valued for taxation and assessed separately."

Article 15, Section 11(a), adopted November, 1988, requires uniformity of assessment. All property, except that which the constitution otherwise provides, shall be uniformly valued at its full value as defined by the legislature. Clause (b) exempts agriculture and grazing lands from the full value requirement and directs that the lands be valued according to the capability of the land to produce agricultural products under normal conditions. The Wyoming legislature felt it important to maintain the lands for ranching and agriculture and believed valuing them at full value could lead to the breakup of agricultural lands into other uses.

The Wyoming State Legislature established in § 39-13-103(b)(B)(ii) that all taxable property shall be annually valued at its fair market value. § 39-13-103(b)(B)(x) states the taxable value of agricultural land is to be based on the current use of the land, and the capacity of the land to produce agricultural products, including grazing and forage, based on average yields of lands of the same classification under normal conditions.

To be considered agricultural land, the land must be used primarily for the purpose of obtaining a monetary profit from agriculture pursuits, and unless legally zoned otherwise. It must be used for agriculture for two years.

The Article 15, Section 11(a)(i-iii) of the constitution prescribes three classes of property: (i) gross production of minerals and mine products in lieu of taxes on the land where produced; (ii) property used for industrial purposes as defined by the legislature; and (iii) all other property, real and personal. The legislature is not allowed to create new classes or sub classes.

The Wyoming Constitution states in Article 15, Section 3 that mines and mining claims, ...shall be taxed in addition to the surface improvements, and in lieu of taxes on the lands, on the gross product thereof, as may be prescribed by law; provided, that the product of all mines shall be taxed in proportion to the value thereof.

The state legislature enacted in Wyoming § 39-11-101(xiv) that those properties used or held for industrial use are:

- (A) Manufacturing, milling, converting, producing, processing or fabricating materials;
- (B) The extraction or processing of minerals;
- (C) The mechanical, chemical or electronic transformation of property into new products.

Property belonging to non-industrial businesses is classified as commercial property, and along with property owned by agriculture interests and residential real property is considered all other property, real and personal. Wyoming § 39-11-105(a)(xi) excludes all residential personal property from property taxation except mobile homes.<sup>1</sup>

All tangible personal property used in a business is taxable including but not limited to: all furniture, fixtures, machines, computers, software, equipment, telephone systems, tools manuals or libraries, unlicensed vehicles, mobile machinery, along with any small items used in a business. It depends on its use, industrial or commercial, as to how it is assessed. Leasehold improvements must be reported and listed separately. Leased equipment must be listed in detail along with the name and address of the leasing company.

The legislature is to prescribe the percentage of value to be assessed against each class of property. There cannot be more than one rate for each class of property and the taxation is to be equal and uniform within each class of property. Wyoming State Constitution Article 15, Section 11 (b).

Wyoming § 39-13-103(b)(A)(i) states that except as otherwise provided that all taxable property shall be annually listed, valued and assessed for taxation in the county in which located and in the name of the owner of the property on January 1;"

#### Assessment Ratios of Property

Wyoming § 39-11-101 (xvii) establishes the assessment ratio to determine the taxable or assessment value for the 3 classes of property:

Beginning January 1, 1989 "Taxable value" means a percent of the fair market and production value of property in a particular class as follows:

- (A) Gross product of minerals and mine products, one hundred percent (100%);
- (B) Property used for industrial purposes, eleven and one-half percent (11.5 percent);
- (C) All other property, real and personal, nine and one-half percent (9.5 percent).

The property of commercial businesses is valued at 9.5 percent of fair market value for tax purposes. Residential real property, mobile homes, improvements on agricultural land, and agricultural equipment fall in the latter category. Agricultural land is valued at 9.5 percent of productive value..

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<sup>1</sup> Mobile homes are valued as personal property unless the mobile home is installed on a permanent foundation and then is taxable as real property. WS 31-2-502(b)

These ratios were established by the legislatures according to Cynthia Lummis<sup>2</sup>, State Treasure and past state representative, for various reasons. Minerals were to be assessed at 100 percent because they are only taxed once whereas other real and personal property is taxed year after year. Industrial property is taxed only two basis point higher than other property to comply with the Federal 4R Act. This act limits the disparity between the taxing of railroads and other property by state governments. Article 15, Section II of the Wyoming constitution meets this requirement by providing that the percentage of value prescribed for industrial property shall not be more than 40 percent higher nor more than (4) percentage points prescribed for property other than minerals. Commercial property is not assessed at the same percentage as industrial property because of the impact on small business. The legislature also felt the percentage for residential properties should be less than industrial in order to mitigate the possibility of a regressive tax.

### **Property Tax Exemptions and Relief Measures**

#### **Exemptions**

Wyoming's property tax exemptions are listed below.

Article 15, Section 12 of the Wyoming State Constitution exempts the property of the United States, state, counties, cities, towns, school districts and municipal corporations used primarily for governmental purposes. Public libraries, lots and buildings used for religious worship, church parsonages, church schools and public cemeteries are also exempt from taxation. The constitution gives the power to the legislature to exempt other property by statute.

Wyoming § 39-11-105 more specifically exempts the above property and those properties exempted by the legislature. These exemptions include: property of non-profit water utilities, fire departments, museums, hospital, water and sewer, water conservancy and irrigation districts.

Property of charitable entities is excluded as long as it is used for non-profit purposes. Property of charitable entities more specifically defined includes that of schools, orphanages, hospitals, secret, benevolent and fraternal organizations, senior citizen centers, and facilities of corporations providing services for the disabled, mentally ill, substance abusers or victims of family violence.

Property owned by non-profit entities used for community fine art's presentations is exempted. Improvements to residential property are not taxed if they are meant to provide access for handicapped persons. Specific exemptions are given by statute to property owned

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<sup>2</sup> Cynthia Lummis served on the sub committee established in January, 1988 that drafted the constitutional amendment that required uniformity of value, Article 15, Section II. Her comments for reasons behind this article and the assessment ratios adopted by the legislature in 1988 were given in an interview on April 1, 1998.

by the Wyoming Community Development Authority and the Black Hills Joint Power Commission.

Personal property that is excluded includes property held for personal or family use, inventories, in transit property, intangible personal property, livestock, property designed and used underground for mining purposes, pollution control equipment, and fire suppression equipment.

Certain property is excluded because taxes or fees from another source are paid on it. This property includes snowmobiles, mobile machinery if registered and real property owned by the Wyoming Game and Fish Commission.

### Relief Measures

1. **Veteran's Exemption** - Wyoming § 39-13-105 allows the exemption for veterans of World War I&II, Korean War, and the Vietnam War. In addition, the exemption is allowed for veterans participating in several foreign military operations including the recent Persian Gulf-Desert Storm operation. The total tax exemption is \$800.00. It can be used against county property taxes at a rate of two-thousand assessed dollars per year (depending on mill levies, this equates to approximately \$150 per year) or against the county fees for vehicle registration ( up to \$60 per year). In all cases the property or vehicles must be deeded or titled in the veteran's or his spouse's name. Once the \$800 is used, the exemption continues only if the veteran has a service related disability. If the veteran is deceased, the exemption continues for the spouse if they do not remarry and continue to reside in Wyoming. The state appropriates money each biennium to reimburse county governments for veterans' exemptions.
2. **Homestead Exemption** - Wyoming § 39-13-109(d)(i) allows for the property of owner occupied dwellings with an assessment value of between \$1.00 and \$5,850.00 to apply for this exemption which is a credit against the homeowner's taxes. The county where the exemption is claimed is then reimbursed by the state for the total amount of the exemptions claimed. In order for the exemption to be allowed, the state legislature must appropriate the reimbursements to the counties. The exemption has not been funded since 1990.
3. **Property Tax Relief** - Wyoming § 39-13-109(iii) allows a taxpayer to apply to the county treasurer for a property tax refund from property taxes paid on time for the preceding calendar year upon his principal residence including the land upon which the residence is located not to exceed two (2) acres. The tax relief is granted to those individuals who meet the poverty guidelines outlined in the statute. The maximum reimbursement allowed is \$500.00. This provision sunsets January 1, 2003 unless extended by the legislature.
4. **Property Tax Deferral** - Wyoming § 39-13-107 (b)(iii) allows a qualified taxpayer to apply to the board of county commissioners for deferral of the collection of not to exceed one-half (1/2) of any real estate ad valorem taxes owed by the property owner on his



principal residence. The deferral becomes a tax lien against the property with interest accruing on any tax collection deferral at a compounded rate of 4 percent per year. The taxpayer must qualify annually for a continual deferral. Once the taxpayer's financial condition improves arrangements are made to repay the taxes deferred. If the property is sold, the taxes deferred are deducted from the sale proceeds. This program is a county option. Teton, Sublette, and Sheridan counties currently have the program approved and in place. Teton County is the only county with participants.

### Mill Levies

Assessed or taxable value is determined by multiplying the fair market production value of property times the assessment ratio for the property class. A mill is .001 of \$1.00 (or 1.00 per \$1000 of assessed value). A mill is multiplied by the taxable or assessed value of property to determine the taxes due.

Fair Market or Production Value X Assessment ratio = Taxable Value X .001 = Tax rate/ mill assessed.

\$80,000.            X        9.5%            =    \$7,600            X .001 = \$7.60

The Wyoming Constitution states the maximum number of mills the governmental entities in the state can assess. The actual number of mills used is at the discretion of the governing body of the governmental entity and depends on the anticipated expenditures that must be funded by the entity for the next fiscal year.

State government can assess up to four mills on the state's total assessed valuation but these mills have not been levied since 1969, the year the legislature passed the minerals severance tax. There is currently no statutory mechanism to enact the tax. County governments can assess up to twelve mills on the taxable value of the county. Cities and towns are limited to eight mills assessed on the taxable value of the property located in municipal limits.

Both state and local governments collect property taxes for support of schools. The State constitution provides that the state should collect up to twelve mills for schools on the assessed value of all property in the state, the county up to six mills on property in the county. The Constitution in Article 7, Section 9 allows the legislature to make further provision for schools through taxation. § 21-13-102 provides that a unified school district can levy up to twenty-five mills and a K-8 district up to twenty mills on the valuation of property within the district. An additional six mills were allowed at the option of the school districts by this statute until the adoption of the new school funding measure was passed by the 1998 Legislature.

In addition, mill levies are assessed by special districts in Wyoming. The mill levies that are allowed for special districts are stated in Wyoming § 39-13-104 (e). Special districts are allowed by state statute to provide special services. School districts are a form of special districts. Wyoming has statutes that allow for the creation of twenty special districts. The

creation of a district is usually by vote of the residents residing in the proposed boundaries of the district. Districts are governed by an elected or an appointed board. The maximum number of mills a district can levy is stated in statute. Table 3A describes the districts allowed by statute, their statute citation and the maximum number of mills allowed.

**TABLE 3A**

District	Statute	Mill Levy Limitation
Cemetery	35-8	3 Mills
Community College	21-18	10 Mills
Conservation District	11-16	1 Mill
County or Municipal Health District	35-1	1 Mill
Downtown Development Authority	15-9	30 Mills
Drainage District	41-9	At discretion of county commissioners
Fire Protection District	35-9	3 Mills
Flood Control District	41-3	12 Mills on real property, only
Hospital District	35-2	6 Mills
Improvement and Service Districts	18-12	At the discretion of property owners residing in the district for bonds and interest.
Irrigation District	41-7	At discretion of county commissioners
Local Improvement District ( public utilities)	37-13	Mills assessed to meet bonding needs.
Museum	18-10	1 Mill
Rural Health Care District	35-2	2 Mills
Sanitary and Improvement District	35-3	1 Mill
Senior Citizen District	18-15	1 Mill
Solid Waste District	18-11	3 Mills
Water and Sewer District	41-10	8 Mills
Water Conservancy District	41-3	1 Mill
Weed and Pest Districts	11-5	2 Mills

Levies are made to pay principal and interest for bonded indebtedness approved by the voters of a jurisdiction for capital improvements. A school district's debt limit is 10 percent of the assessed valuation if it is a unified district or 6 percent if it is K-8 district. Cities and towns are limited to 4 percent and counties to 2 percent of the assessed value. Certain special districts can assume bonded debt and the limit is between 1 percent and 10 percent of the assessed value depending on the district.

The average number of mills levied in Wyoming in 1998 was 73.3. Taxes on the \$80,000. home shown on page 5 would be \$557.00 (7.60 X 73.3). The average mills assessed by each type of jurisdiction between 1983-1998 are shown in Table 3B.

**TABLE 3B<sup>3</sup>**

<b>Mill Levy</b>	<b>1983</b>	<b>1987</b>	<b>1991</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>Change from 83-98</b>
<b>All Purpose/Statewide</b>	88.542	77.427	76.780	78.016	77.158	77.860	78.551	73.303	7.0%
<b>State</b>	0	0	0	0	0	0	0	0	
<b>State School Foundation</b>	12	12	12.00	12	12	12	12	12	0%
<b>County Tax</b>	12.697	11.578	11.721	11.628	11.578	11.567	11.531	11.526	-9.2%
<b>Municipal Tax</b>	8.854	8.061	7.510	7.266	7.279	7.311	7.292	7.303	-17.5%
<b>School Tax</b>	35.867	38.660	39.336	40.304	39.639	40.514	41.893	37.858	5.6%
<b>Special District</b>	10.873	11.211	3.934	4.330	4.542	4.692	4.56	4.616	-57.6%

### **Administration**

Unless provided by law for specific property, the statutes provide that the Wyoming Department of Revenue shall prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal techniques. Wyoming Department of Revenue Rules and Regulations establishes the sources by which property tax appraisers can value property.

Wyoming § 39-13-102 (m)(i) through (viii) gives the power of valuation of certain industrial property (state assessed property) to the Wyoming Department of Revenue.

The Department of Revenue shall annually value and assess the following property at its fair market value for taxation:

The gross product of all mines and mining claims; property of pipeline companies; property of electric utilities; property of railroad companies; property of rail car companies; property of telephone and telegraph companies which have more than two thousand dollars (\$2,000.00) in assessed value; property of other public utilities; leased property consisting of warehouses, storage facilities and office structures and any other property that is in support of or which is used or held for use for the activities listed in this subsection. If leased property is assessed to the lessee it shall not be assessed to the property owner.

All other industrial property, including above ground improvements and equipment belonging to the mining and oil and gas industries, is valued by local county assessors. The county assessors also value residential, commercial and agricultural property.

<sup>3</sup> For 1983 through 1987 "All Purpose" is used, for 1991 through 1997, the "State wide average" is shown.

## State Assessed

Chapter 7 of the Wyoming Department of Revenue's Rules and Regulations describes the valuation methodology used to determine the taxable value of state assessed public utility and railroad property. The operating section of the Ad Valorem Tax Division of the Department of Revenue is the State Assessment Section delegated the authority to appraise and value all state assessed property. All real and tangible property existing on January 1 of each year shall be subject to assessment except that property exempt by statute.

The reporting of taxable property is the responsibility of the taxpayer. Wyoming § 39-13-107 (b)(ii) requires on or before the dates shown below that any person whose property is state assessed shall sign under oath and submit a statement to the department listing the information necessary to assess the property:

- (ii) May 1, rail car companies (see section car companies);
- (iii) April 1, pipeline companies, electric utilities, telephone and telegraph companies and other public utilities;
- (iv) May 1, railroad companies.

Mineral production reports for gross products (ad valorem) tax valuations are due to the Minerals Tax Division of the Department of Revenue by February 25 per § 39-14.

If a report is not filed or if it is incomplete, the State Assessment section will appraise the company by a best information available method as described in the Department of Revenues Rules and Regulations and subject those companies to the penalties specified in § 39-13-108(c)(ii).

The State Assessment section appraisers utilize three distinct appraisal techniques to estimate fair market value: 1) sales comparison approaches; 2) cost approaches to Value; and 3) income capitalization to value approaches. Section 6 of Chapter 7 of the Department of Revenue's Rules and Regulations describe these appraisal techniques. One or more of these approaches shall be used to determine fair market value. The property shall fit the assumptions inherent in the appraisal approach, and the appraisal approach should consider the nature of the property or industry, and the regulatory and economic environment within which the property operates.

Once the values are determined by the above approaches, the appraiser shall reconcile the approaches by considering the relative significance, applicability and appropriateness of the indications of value. The appraiser will place the most consideration and reliance on the value indicator which, in his professional judgment, best approximates the value of the subject property.



All interstate public utilities or railroads use a unitary value system.<sup>4</sup> An allocation process is used to reasonably allocate property values in Wyoming. Apportionment is used to distribute the values of state assessed properties among counties or taxing districts. This is especially important for non-situs property, property not defined by legal description, (i.e. miles of pipeline, wire miles, cable miles, transmission lines, and others) and specific investment accounting assets segregated by the above items.

Accurate reporting of company operations for tax assessment is the responsibility of the business entity. Once every four years, the Department of Revenue's Rules and Regulations requires the Ad Valorem Division, State Assessment Section to physically inspect state assessed properties or a representative sample of such properties. Entities who fail to file the necessary reports for assessment purposes can be charged penalties according to Wyoming § 39-13-108(c)(i)(A-C).

The taxpayer whose property is appraised is notified of a preliminary estimate of fair market value of their property. If the taxpayer has objections to the assessment, within ten days of receipt of his preliminary estimate of value, he may request an informal conference with the Department of Revenue, Ad Valorem Division, to provide information as to any error of fact for the company.

A formal notification of assessed value is required by Wyoming § 39-13-102 (n). If the taxpayer feels the values established in this notice are incorrect, an appeal can be filed within 30 days of the postmark of the notification with the State Board of Equalization.

Wyoming § 39-13-102 (o) establishes dates by which the State Assessment Section and the Minerals Tax Division must certify to county assessors the valuations determined by the department for state assessed real and personal property:

- (i) June 1 and no later than July 1, mines and mining claims, pipeline companies, electric utilities and other public utilities;
- (ii) First Monday in June, telephone and telegraph companies;
- (iii) First Monday in July, railroad companies.

County Treasurers are responsible for collecting the property taxes generated by the assessment value of state assessed real and personal property except for rail cars

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<sup>4</sup> "Unitary valuation" is the process of determining the value of a company as a whole without reference to individual parts. The unitary approach is used in the valuation of properties, which derive their value from interdependent assets working together. The market value is not a summation of fractional appraisals, but the value of a company as an operating unit. Department of Revenue, Regular Rules, Dec. 11, 1996, Chapter 7 Page 3.

### Car Companies

Wyoming § 39-13-103(b)(xvi) legislates the method by which rail cars are to be valued and taxed. Chapter 8 of the Department of Revenues Rules and Regulations describes the annual reporting requirements of rail car companies, the valuation methods and tax billing and collection procedures. The State Assessment Section of the Ad Valorem Division of the Department of Revenue is the operating section for the valuation of rail cars. There are three major differences between the property tax procedures for rail cars and those of other state assessed industrial properties:

- 1) Valuation is to be fair market value for each particular class of car. Fair market value is determined by using the market information available, class specific costs, sales and income information submitted by taxpayers, data from surrounding state governments, and recognized value publications.

Each car owned is not valued separately. The number of cars for which each company is assessed is determined by the average number of cars necessary to make the Wyoming miles. Chapter 8, Section 6(iii) of the Department Rules and Regulations details the information and formula used to determine the number of cars assessed.

- 2) Rail cars are industrial property. The level of assessment is determined by multiplying 11.5 percent times the fair market value. The amount of tax due is determined by multiplying the assessed value times the statewide average mill levy as specified in Wyoming § 39-13-104 (g).

The department shall each year make a levy equal to the statewide average county, school district and state levy for the year immediately preceding against the values assessed for each of the counties through which the rail cars may have been operated.

- 3) The Department of Revenue collects the tax due from each taxpayer rather than the county treasurers and then through the state treasurer distributes the taxes collected to the respective county treasurers. Wyoming § 39-13-104 (g) continues:

When the tax due is determined, the department shall send to each owner a statement of the amount of the assessment, the rate of levy and the amount of tax due, which shall be paid to the Department of Revenue. When all these taxes have been collected the state treasurer shall pay to the respective county treasurers the amount due their counties.

The amount paid each county is determined by the track mileage in the county. The county treasurer distributes the car company taxes received per Wyoming § 39-13-111(a)(iii).

The county treasurer shall credit all these taxes to an account within the trust and agency fund and after the regular state, county and school district levies are made, distribute them in the same manner property taxes are distributed.

### Motor Vehicle Property Taxes

Wyoming residents and businesses pay a county property tax on motor vehicles and trailers owned and operated for road use. The tax rate is 3 percent of the factory cost of the vehicle or trailer adjusted for its age. The tax is the county registration fee and is in addition to the sales tax paid on the vehicle at the time of purchase.

Wyoming residents pay the tax in the county treasurer's office when the vehicle is registered and it is renewed annually. The county treasurer also collects the state registration fee which is a flat fee varying according to the type of vehicle being registered.

The county treasurer credits the county registration fees to an account within the trust and agency fund and after the regular state, county, and school district levies are set, distributes them in the same manner as property taxes.

### Locally Assessed Properties

Wyoming § 18-3 outlines the duties of county assessors. Assessors determine the fair market value for local assessed properties annually and commercial personal property, maintain a current record of property characteristics and veterans' exemption records, research public records to determine ownership, review mobile homes annually and perform or contract out locally assessed industrial appraisals. The county assessor maps all tax district boundaries and agricultural land based on use and soil. The assessor has the authority to grant or deny exemption status to locally assessed property. They administer state assessments and defend values and testify in appeals.

The Wyoming Department of Revenue, Ad Valorem Division provides support functions to local assessors:

The Department prescribes appraisal methods and systems for determining fair market value. The Department maintains a computer assisted mass appraisal (CAMA) system housed on the State of Wyoming main frame for this purpose. The Department is responsible for programming and the assessors maintain and input data. Assessors have the option of determining fair market value by using the BOECKH program based on cost (WYS system) or the CLT based cost system (MAS system). Eleven counties use WYS and 12 counties MAS. Both systems are capable of using multiple regression analysis (MRA), sales ratio analysis and vertical and horizontal assessment adjustment system (VHAAS) to arrive at market value.

The department downloads values to the assessor's computer system in order to generate assessment schedules, compile the abstract and provide the tax roll to the treasurer's office.

The department publishes rules covering all aspects of the valuation and assessment systems and provides for uniform interpretation of the statutes among counties. The department produces the "Wyoming Personal Property Valuation Manual", the "Wyoming Appraisal Manual", "Mapping and Agricultural Manual" and the "Tax District Designation Manual".

The department monitors work in progress for each county assessor's office to determine that procedures and formulas promulgated are being strictly applied.

During their 1988 session, the legislature adopted education requirements for local county assessors and each person in the assessor's office. The assessors and their employees are required to be certified as property tax appraisers and receive annual training to maintain certification. The Department of Revenue funds the cost of the courses for certification. County governments are required to provide travel expenses.

The State Board of Equalization establishes the standards and procedures that the county assessors use in equalizing values across counties within the state. They also act as the hearing board for appeals from County Boards of Equalization and the Department of Revenue. They promulgate the rules to establish procedures for processing information disclosed in the statement of consideration. This document must be completed at the time of transfer of all real estate to disclose the sale price and sale provisions to the county assessors office and is used in the process of determining fair market values.

As is the case with state assessed industrial property, the responsibility of reporting commercial, agricultural and locally assessed industrial taxable property is that of the taxpayer. County assessors are required to review all properties every 4 years.

The taxpayer must submit a statement to the county assessor of taxable personal property by March 1 of each year. The Department of Revenue, Ad Valorem Division, does have forms that county assessors can use for taxpayers to meet the reporting requirements. There are individual forms for oil field equipment and drilling/well service work over/seismic rigs. All other commercial, agricultural and locally assessed industrial personal properties are reported on the "*Statement of Personal Property, Tax Year 19--*, Merchants, Manufacturing, Construction, Equipment, Professional". County assessors can develop and use their own forms.

Once initial personal property information is received from the taxpayer, the county assessor can enter it into the Computer Assisted Mass Appraisal (CAMA) sub system developed by the Department of Revenue. The information contained in this file is used to generate letters and forms sent to businesses each year requesting updated reports/renditions of personal property. The forms, sent in January or before, include an itemized listing of the personal property previously reported. The taxpayer is asked to correct, delete, or add new items and return it to the assessor by the due date.



The county assessor can use their own developed appraisal systems with the Department of Revenue's prior approval or under written agreement with the Ad Valorem Division, the CAMA system. The system values all real and personal property except property for which narrative appraisal or other recognized approaches to value are used as a substitute to the CAMA system.

Fair market value is determined by utilizing three approaches to value: 1) sales comparison approaches; 2) cost approaches to Value; and 3) income capitalization to value approaches. Section 6 of Chapter 9 of the Department of Revenue's Rules and Regulations describe these appraisal techniques. One or more of these approaches shall be used to determine fair market value. The property shall fit the assumptions inherent in the appraisal approach, and the appraisal approach should consider the nature of the property or industry and the regulatory and economic environment within which the property operates.

In addition, the valuation methodology for personal property must reflect the trade level at which personal property is found and shall account for factors influencing the value in place including utility, usefulness to the owner or the actual income produced. The "Wyoming Personal Property Valuation Manual" aids county assessors in the valuation process and does include a mobile/manufactured home index for determining the fair market value of mobile homes.

The taxable value of agricultural land is based upon the current use of the land and the capacity of the land to produce agricultural products, including grazing and forage, based on average yields of land of the same classification under normal conditions. It is the Ad Valorem Divisions responsibility to determine the taxable value of agricultural land. Valuation figures for agricultural land for assessment purposes shall be based upon the Department of Revenue's "Mapping and Agricultural Manual" which is published annually by the Department.

It is the County Assessor's responsibility to determine the type or class of agricultural land to be valued. To this end, the assessor has the statutory discretion to determine the productivity value within the appropriate high or low ranges based on, but not limited to: local review of agricultural land property, productivity conditions; mapped soil classifications; land resource areas; tabulated acreage; and actual conditions.

Once the fair market value of residential, industrial, personal and commercial property and the productive value for agricultural lands is determined, the appropriate percentage is applied to generate taxable value: 11.5 percent for industrial and industrial personal property and 9.5 percent for all other personal property. Wyoming § 39-13-103(a)(vii)-(viii) establishes the procedure by which the taxpayer is notified of the taxable value of his property.

The county assessor on or before the fourth Monday in April, or as soon thereafter as practical, shall mail assessment schedules to all taxpayers except those with state assessed valued property. The assessment schedules shall contain the property's estimated fair market value for the current and previous year. It shall also contain the assessment ratio; the amount



of taxes assessed from the previous year and an estimate of the taxes due based on the previous year's mill levies. The statement must inform the taxpayer how he can contest his property assessment.

### Tax Payment

Ad valorem taxes, for local and state assessed property except car companies, are billed from and paid to each Wyoming's county treasurer's office. Each treasurer is required by Wyoming § 39-13-107 (b)(i)(C), after receiving the tax list from the county assessor, to send a statement to each tax payer on or before October 10. Taxes can be paid in two installments or in one payment. If the installment option is chosen the first installment is due between September 1 and November 10, the second installment is due between March 1 and May 10. If the entire tax is paid on or before December 31, there will be no interest or penalty charged.

### Enforcement

If taxes are not paid by May 11, the county treasurers can initiate enforcement measures.

County treasurer declares taxes not paid as delinquent as of the day they were payable and assesses interest of 18 percent per annum until paid or collected.

Taxes upon real property are a perpetual lien upon the property against all persons excluding the United States government and the State of Wyoming. Taxes upon personal property are lien upon the personal property owned by the person against whom the taxes were assessed. If the property is transferred before the taxes are paid, the taxes can be collected from other real or personal property of the transferor or from the proceeds of the sale of the property.

Real and personal property can be sold by the county for failure to pay taxes, interest and penalties. The party that purchases the property is given a certificate of purchase which entitles them to control of the property until they can apply for a tax deed, which gives them ownership of the property. During the time they have control of the property, they must continue to pay the taxes on the property. The procedures for tax sales are set forth in Wyoming § 39-13-108.

### Taxpayer Remedies

To contest a property assessment, the taxpayer must file not later than thirty (30) days after the postmark date of the assessment schedule, a statement with the county assessor. The county assessor and the taxpayer will attempt to settle their disagreements over the taxable value. If they are not successful, the issue is brought before the County's Board of Equalization for settlement. The county commissioners sit as the County Board of Equalization. Rulings of the County Board of Equalization can be appealed to the State Board of Equalization and from there to the Wyoming court system.

Taxpayers who have over paid their taxes or who have paid their taxes and who upon appeal have had their taxes reduced can be granted refunds by order of the county commissioners. A refund can also be in the form of a credit against future tax payments for a period not to exceed five years.

Taxpayers who have had real property sold at a tax sale do have six years in which to redeem their property. This provision also applies to lien holders of the property. The parties redeeming the property must not only pay all past due property taxes, but the interest and penalties that have accrued. In addition, the certificate of purchase holder on the property must also be reimbursed for their expenses.

Taxpayers who have paid taxes under protest subject to an appeal before the State Board of Equalization or competent jurisdiction, must have the taxes under appeal placed in an interest bearing escrow account by the county treasurer. To the extent that the taxpayer prevails, the county treasurer is to refund the taxes plus interest within thirty days of the decision.

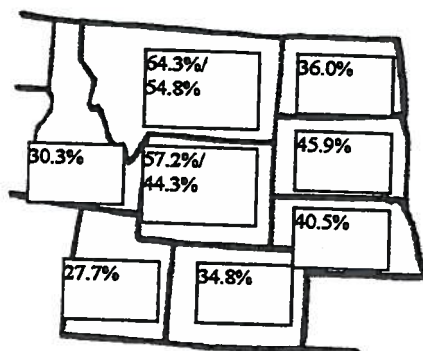
All personal property taxes not collected within ten years from the time they were levied shall be cancelled and consider uncollectable. Property that has been omitted from the tax roll and later discovered by the county assessor can only be assessed back taxes for a period of five years.

### Collections and Distribution

#### Tax Collections

Property tax plays an important role in financing local governments in Wyoming. More so in Wyoming than in surrounding states. The map below shows the property tax revenue in surrounding states and Wyoming as a percent of the total of three tax revenues, sales tax, property tax, and income tax.

Wyoming does not have an income tax and Montana does not have a personal sales tax.



The first number showing on the map of Wyoming is the percentage of property tax collected from the total of property and sales taxes. The second number includes the mineral severance tax as the third tax. Wyoming is more in line with surrounding states when this tax is included. The first figure on the Montana map is the percentage of property tax collected from the total of property and income tax collected. The second figure includes the business sales taxes including severance taxes as the third tax. Even with these taxes, Montana's property tax percentage of tax revenues is high.

The assessed value of minerals is the predominant source of property taxes in Wyoming. The Table 3C below shows the history of the assessed value of minerals in relation to the state's total assessed values. It also depicts total taxes collected and the portion attributed to minerals. The assessed valuation shown was determined the year prior to when the tax

**TABLE 3C**

Year Assessed	Total Assessed Value	Assessed Value from Minerals	Mineral Values as a % of total values	Year taxes paid	Total Property Taxes	Taxes Collected from minerals and mineral related	Taxes from minerals as % of total taxes
1969	1,317,876,063.00			1970	78,273,440.00	25,667,876.00	32.79%
1974	2,168,456,373.00			1975	131,082,890.00	56,781,222.00	43.32%
1979	4,515,133,799.00			1980	298,415,206.00	162,726,224.00	54.53%
1984	8,389,156,815.00	5,987,627,146.00	71.40%	1985	565,740,057.00	393,652,409.00	69.58%
1989	6,074,431,051.00	3,772,814,316.00	62.10%	1990	412,013,986.00	247,692,543.00	60.01%
1993	6,291,213,307.00	3,523,774,856.00	56.01%	1994	436,644,341.00	237,229,568.00	54.33%
1994	6,231,754,659.00	3,316,362,145.00	53.22%	1995	430,007,453.00	221,575,958.00	51.53%
1995	6,423,400,855.00	3,298,317,781.00	51.35%	1996	450,010,743.00	223,879,371.00	49.75%
1996	7,145,869,312.00	3,876,129,226.00	54.24%	1997	509,052,515.00	267,438,424.00	52.54%
1997	7,441,470,939.00	4,017,611,483.00	53.99%	1998	500,551,425.00	263,271,161.00	52.60%

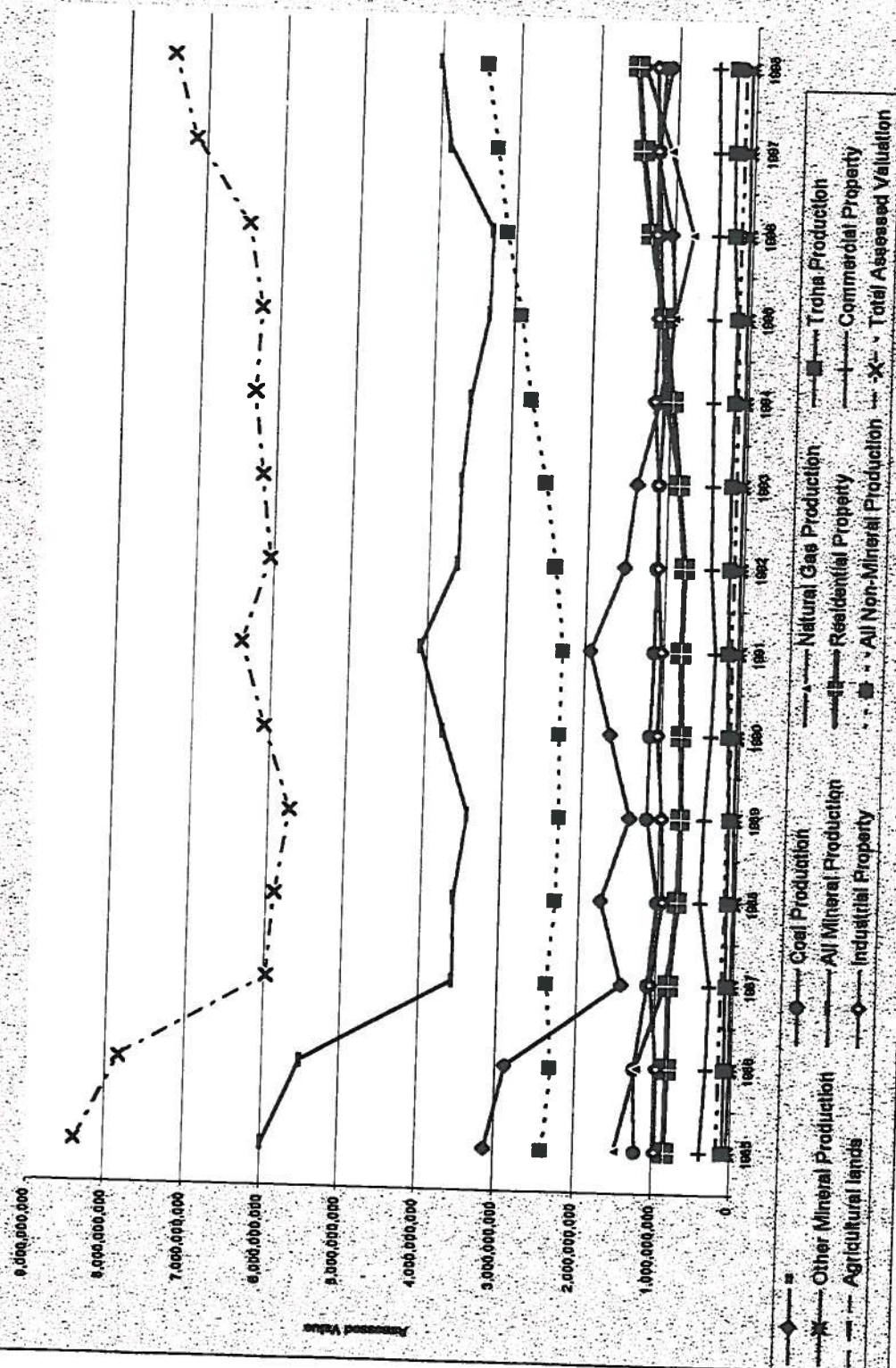
was actually collected. The peak year for minerals was 1985. Since that year there has been a sharp decrease in property taxes collected on minerals due to a decrease in oil exploration and production and lower market prices for oil and gas, coal and other minerals.

Chart 3A graphs the sources of Wyoming's assessed value from 1985 to 1998 using percentages. In the mid-eighties, mineral production accounted for over 70 percent of the total assessed value. This percentage has continuously decreased since 1985. In 1996, mineral and non-mineral production was almost equal. This is further supported by the lines at the bottom of the chart which depict the assessed value of specific minerals and other types of property. Coal assessed values have remained relatively stable since 1987 with a slight downturn in 1997. The price per ton of coal continues to decrease, though production has increased.

On the other hand, residential values increased from 1994 to 1996 and leveled off in 1997. One reason for this is that the Department of Revenue and the State Board of Equalization has been working with county assessors to assure that taxation is equal and uniform within the residential type of property. This means that residential property throughout the state is valued by all county assessors at full market value. Agricultural values, industrial values and commercial values all took decreases from 1996-1997.



### Chart 3A - Assessed Value



It is interesting to note in Chart 3A that up until 1993, total assessed valuation and mineral valuations followed the path of oil production. After 1993, total assessed valuation increases every year but mineral valuation and oil valuation decrease with a slight increase in 1997.

Mineral production has amounted to over 50 percent of the states total assessed valuation. What is also notable is the assessed valuation of improvements and personal property owned by mineral related businesses. Table 3E shows the breakdown of locally assessed values between mineral related businesses and all other industrial property from 1994-1997.

**TABLE 3D**

	<b>Total Assessed Value Locally Assessed Industrial Property</b>	<b>Assessed Value of Locally Assessed Mineral Related Property</b>	<b>Mineral Related Percentage of Total</b>
1994	631,666,203.00	476,495,394.00	75.43%
1995	615,519,991.00	471,306,480.00	76.57%
1996	630,199,311.00	555,434,756.00	88.14%
1997	639,622,556.00	570,874,410.00	89.25%
1998	659,506,197.00	571,355,813.00	86.63%

#### Tax Distribution

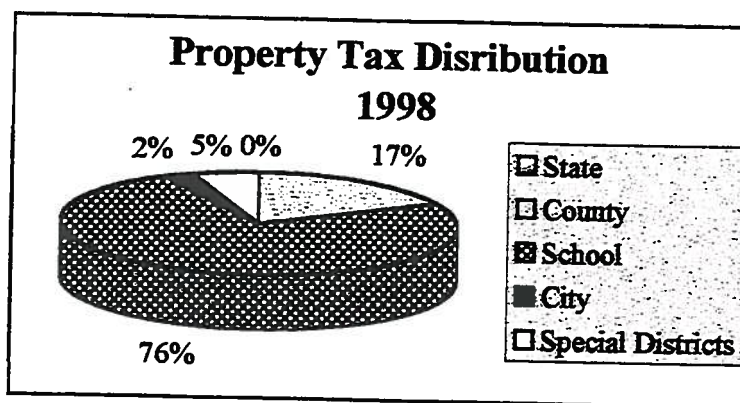
Property Tax Distributions can first be considered by understanding what levels of government receive property taxes, and then by seeing within each level how the taxes are distributed among the individual entities.

Chart 3B depicts what levels of government were funded by property taxes in 1998.

The four mills authorized by the Wyoming constitution have not been authorized by the State Legislature since 1969. The State general fund does not receive any revenues from property taxes. School district's are the chief benefactor of property taxes in Wyoming. They received 12 mills from a statewide levy, 6 mills from a county levy and 25 mills from a school district levy for a total of 43 mills. The percentage shown in Chart 3B reflects the taxes generated by the optional 6 mills school districts could assess at this time and the tax revenues from locally approved mills for bond and interest used to fund capital construction.

The percentage shown for counties reflects the 12 mills counties can levy as authorized by the Wyoming Constitution. The city/town percentage is the 8 mills allowed.



**CHART 3B**

**PROPERTY TAXES  
All Governments  
1998**

State Government	0.00
County Government	88,187,397.00
City/Town government	12,373,623.00
School Districts/Higher Education	377,916,476.00
Special Districts	26,194,556.44

There is a large difference between taxes distributed to counties and those distributed to cities even though there is only a 4 mill levy difference. The assessed valuation of cities does not include mineral valuations since the mining of minerals takes place outside city limits. School districts, counties, special districts and community colleges all do benefit from mineral production.

The legislature cannot increase the amount of mill levies allowed cities and towns since they are established by the constitution. To counteract this problem, the legislature has diverted sales tax and severance tax revenues as well as federal mineral royalties to cities and towns. This may also account for the growth in the adoption of the local option sales taxes.

In some instances proliferation of special districts with independent taxing authority is another way in which mill levy limits of cities, towns, and counties have been skirted. Special districts received 5 percent of property tax distributions, third highest of all levels of government. Add to this what is distributed to community college districts, the percentage increases to 12.2 percent, a little over one-percent point behind counties. Table 3F compares municipal valuations to county valuations and includes the number of special district in each county in 1998

**TABLE 3E**  
**County**

	Assessed Valuation	Number of Municipalities	Valuation of Municipalities	% of County	Number of Special Districts
<b>Albany</b>	149,948,849	2	95,331,533	63.58%	5
<b>Big Horn</b>	129,577,299	9	17,331,448	13.38%	26
<b>Campbell</b>	1,495,260,165	2	70,509,564	4.72%	9
<b>Carbon</b>	357,009,725	10	41,793,173	11.71%	14
<b>Converse</b>	286,990,621	4	23,658,637	8.24%	7
<b>Crook</b>	86,103,328	4	10,314,907	11.98%	2
<b>Fremont</b>	288,982,662	6	70,611,686	24.43%	27
<b>Goshen</b>	70,791,567	5	21,549,617	30.44%	23
<b>Hot Springs</b>	92,180,926	2	11,252,011	12.21%	7
<b>Johnson</b>	79,671,264	2	16,999,226	21.34%	7
<b>Laramie</b>	396,377,730	4	248,195,742	62.62%	17
<b>Lincoln</b>	445,074,789	8	24,243,547	5.45%	20
<b>Natrona</b>	416,733,395	6	173,052,445	41.53%	11
<b>Niobrara</b>	33,275,890	3	4,970,655	14.94%	4
<b>Park</b>	319,181,952	4	67,492,894	21.15%	20
<b>Platte</b>	125,945,935	5	48,503,672	38.51%	8
<b>Sheridan</b>	124,588,912	4	4,006,748	27.30%	9
<b>Sublette</b>	376,372,632	3	12,117,201	3.22%	9
<b>Sweetwater</b>	1,167,481,755	6	160,016,277	13.71%	16
<b>Teton</b>	379,656,703	1	89,777,763	23.65%	7
<b>Uinta</b>	462,868,967	3	44,956,067	9.71%	9
<b>Washakie</b>	96,244,905	2	24,403,843	25.36%	9
<b>Weston</b>	61,148,238	2	10,151,209	16.60%	6
<b>Total</b>	7,441,468,209	97	1,321,239,865	17.76%	272

Within each level of government, taxes are distributed based upon the assessed valuation of the geographical boundaries of the specific governmental entity. As discussed above, cities and towns do not generate assessed valuation from minerals. Their tax base is primarily limited to residential properties with some contribution from commercial properties. Counties, special districts, community colleges and school districts all do benefit from mineral production, but not equitably. Wyoming's mineral production is not spread evenly throughout the state.

Table 3F on page 22 compares the 1998 property tax capacity across county lines. It displays what one mill generates in total taxes and in non-mineral taxes. It shows the percentage for assessed valuation from minerals and from non-minerals. It ranks counties in four categories.

Though, mineral production represents over half of Wyoming's property tax base, reliance on mineral production varies widely from county to county – from over 80 percent of Campbell County's assessed value to just one-tenth of one percent of Teton County's tax base. Relative tax capacity also varies dramatically among Wyoming counties. In Campbell County, for example, one mill raises almost \$1.5 million, while Niobrara County can generate only \$33,275. This may be one reason a few counties and special districts have not had to use their total mill levy capacity as allowed by the Constitution. Table 3F shows the mill levies adopted by counties in 1998 total taxes, tax per mill levy and tax per capita. There is a tremendous variation between the dollar amount of taxes generated per mill and the taxes per capita for each county.

**TABLE 3F**

COUNTY	1998 Estimated Population	1998 County Mill Levies	1997 Total Assessed Value	1998 Total Taxes	Property Tax Revenue Per Capita	Tax Value Per Mill
Albany	31,130.00	12.000	149,948,849	1,799,386.19	58.04	149,948.85
Big Horn	11,490.00	12.000	129,577,299	1,554,927.59	141.36	129,577.30
Campbell	32,450.00	11.038	1,495,260,165	16,504,681.70	532.41	1,495,260.17
Carbon	15,830.00	12.000	357,009,725	4,284,116.70	267.76	357,009.73
Converse	12,150.00	12.000	286,990,621	3,443,887.45	286.99	286,990.62
Crook	5,810.00	12.000	86,103,328	1,033,239.94	172.21	86,103.33
Fremont	36,500.00	12.000	288,982,662	3,467,791.94	99.08	288,982.66
Goshen	12,790.00	12.000	70,791,567	849,498.80	65.35	70,791.57
Hot Springs	4,660.00	12.000	92,180,926	1,106,171.11	221.23	92,180.93
Johnson	6,800.00	12.000	79,671,264	956,055.17	136.58	79,671.26
Laramie	80,420.00	12.000	396,377,730	4,756,532.76	60.98	396,377.73
Lincoln	14,140.00	9.369	445,074,789	4,169,905.70	297.85	445,074.79
Natrona	64,520.00	12.000	416,733,395	5,000,800.74	78.14	416,733.40
Niobrara	2,660.00	12.000	33,275,890	399,310.68	133.10	33,275.89
Park	25,850.00	12.000	319,181,952	3,830,183.42	153.21	319,181.95
Platte	8,540.00	12.000	125,945,935	1,511,351.22	188.92	125,945.94
Sheridan	25,580.00	12.000	124,588,912	1,495,066.94	59.80	124,588.91
Sublette	5,710.00	10.266	376,372,632	3,863,841.44	772.77	376,372.63
Sweetwater	40,450.00	12.000	1,167,481,755	14,009,781.06	341.70	1,167,481.76
Teton	13,950.00	9.110	379,656,703	3,458,672.56	266.05	379,656.70
Uinta	20,490.00	12.000	462,868,967	5,554,427.60	277.72	462,868.97
Washakie	8,720.00	14.939*	96,244,905	1,437,802.64	159.76	96,244.91
Weston	6,570.00	12.000	61,148,238	733,778.86	104.83	61,148.24
	487,210.00		7,145,869,313.00	85,221,212.22	177.91	323,542.10

\* Includes 12.000 county mills and 2.939 county bonds and interest.

## **MINERAL TAXES**

### **Statutory Background and Basis of Property Valuation**

Wyoming is one of few states that levies both a property tax and as a privilege to extract or severance tax on minerals. The property tax on minerals was considered generally in the previous section. The discussion that follows considers the severance tax on minerals and relates the similarities and non-similarities of the two mineral taxes.

A severance tax according to Wyoming § 39-11-101(a)(ix) defines severance tax as an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this State.

Chapter 14 of Title 39 dictates the procedures for the collection of mineral taxes in Wyoming. There are 7 articles in this chapter, each dealing with a specific mineral. The minerals are: 1) coal 2) oil and gas 3) trona 4) bentonite 5) uranium 6) sand and gravel and 7) other valuable deposits. Each article is further divided into eleven (11) sections that address specific procedures as they apply to each mineral. These sections are 101) Definitions, 102) Administration, confidentiality, 103) Imposition, 104) Tax Rate, 105) Exemptions, 106) Licenses, Permits, 107) Compliance; collection procedures, 108) Enforcement, 109) Taxpayer remedies, 110) Statute Limitation and 111) Distribution.

The determination for the imposition of taxes is the same for both ad valorem (gross product) and severance taxes. The primary difference between the valuation of minerals for ad valorem and severance taxes is the time of reporting and payment. Ad Valorem taxes are figured on the total production of the previous year. Severance taxes are figured and reported on the current month's production.

The point of valuation for oil and gas is at the wellhead. Valuation is made prior to any processing or transportation expense. If the product is not sold prior to the point of valuation in a bona-fide arms length sale or if used without sale, valuation is determined by using one of the following methods: 1) comparable sales, 2) comparable value, 3) net back, 4) proportional profits or 5) method agreed upon between the operator/owner and the Wyoming Department of Revenue. Net back is an allowable method for production years prior to 1990 and is an allowable method for production years beginning in 1990 with the exception of gas processed from joint venture owned gas plants. The methods are described in the department's Rules, Chapter 6 Section 10; and in Wyoming § 39-14-203.

Valuation of coal sold at the mouth of the mine without further movement or processing is the fair cash market value as established by a bona-fide arms length sale less exempt royalties. Exempt royalties are those royalties for interests owned by the United States, State of Wyoming or an Indian tribe.

For coal sold away from the mouth of the mine in a bona-fide arms length sale, ad valorem, all royalties, production taxes, severance taxes, black long excise taxes, and abandoned mine land fees



are deducted from the F.O.B. mine sales price. The resulting price is then multiplied by the ratio of direct mining costs to the total direct costs. To the resulting amount non-exempt royalties, ad valorem, production taxes, severance taxes, black lung excise taxes, and abandoned mine land fees are added back to determine the fair market value of coal.

The sales value of coal, used without sale or not sold pursuant to an arms length agreement, is the same as coal that is comparable in quality, quantity, terms, and conditions which is sold both in the spot market and through long-term agreements negotiated within the previous twelve months. This value is multiplied by the respective number of tons used or sold for each reporting period.

The determination of the 100 percent fair cash market value of the gross product of other minerals is determined at the point at which the mining or production of the mineral is completed, usually the mouth of the mine. When a solid mineral is sold at the point of valuation pursuant to a bona-fide arms length sale, the sales price shall be the fair cash market value. When a solid mineral is sold at a point other than the point of valuation, the fair cash market value shall be determined in accordance with recognized appraisal techniques. These techniques include the cost approach and the comparison approach and are described in Section 10, Chapter 6 of the Department of Revenues Rules and Regulations. Specific rules for valuation are provided for trona, uranium and bentonite.

### Rates

The ad valorem taxes paid on minerals are determined as was discussed in the property tax appendix of this report. The 100 percent fair market cash values as determined above are multiplied by the mill levies of the appropriate taxing jurisdiction.

Article 15, Section 19 of the Wyoming Constitution states that the legislature shall provide by law for an excise tax on the privilege of extracting minerals of 1.5 percent on the gross value of the mineral extracted. Minerals subject to the tax are coal, petroleum, natural gas, oil shale and others as prescribed by the legislature. Such tax is in addition to any other excise, severance or ad valorem tax on the minerals. Severance tax rates will vary depending on the mineral produced. The following table presents the tax rates for each class of mineral including the constitutionally required 1.5 percent rate:

**TABLE 4A**

Coal	Surface coal –	(i)	1.5%
		(ii)	.5%
		(iii)	2.0%
		(iv)	1.5%
		(v)	1.0%
		(vi)	.5% - Total 7%
Oil and Gas	Underground coal-	(i)	1.5%
		(ii)	1.25%
		(iii)	1.0% - Total 3.75%
		(i)	1.5%
		(ii)	.5 %
		(iii)	2.0%(1.0% if oil is \$20.00 or less per barrel between 1/1/99-12/31/00)
Trona		(iv)	2.0% (1.0% if oil is \$20.00 or less per barrel between 1/1/99-12/31/00)
			Total 6% (4% if oil is \$20.00 or less per barrel between 1/1/99-12/31/00)
		(i)	2.0%
		(ii)	2.0% - Total 4%
		(a)	2.0%
		(i)	2.0%
Bentonite		(ii)	2.0%-Total 4%
Uranium		(a)	2.0%
Sand and Gravel			
Other Valuable Deposits		(a)	2.0%

### Exemptions, Incentives and Relief Measures

#### Coal

- (i) Ad valorem and severance taxes
  - a. Coal has no value if it is consumed prior to sale for the purpose of treating or processing coal produced from the same mine.
- (ii) Severance taxes
  - a. If the severance tax on a ton of coal exceeds .60 per ton for surface-mined coal and .30 per ton for underground coal, the coal is exempt from the tax which exceeds the maximum amount per ton.
    1. New contracts or modification of an existing contract if entered into between March 31, 1987 and December 31, 2003.
    2. This exception is subject to meeting certain conditions.
      - a.) The coal is consumed outside of the state, or meets certain production requirements if consumed within the state, or if consumed within the state replaces a coal source from outside the state.
      - b.) The new contract is not the result of replacing the contract of another Wyoming producer.

## Oil and Gas

### (i) Severance Taxes

- a. Stripper 15 production is exempt from (iii) providing for a 4 percent tax rate on production less than 15 barrels per day when the average prices is less than \$20 per barrel.
- b. Crude oil extracted from collection wells prior to January 1, 1999 is exempt from (ii),(iii) & (iv) for a net tax of 1.5 percent.
- c. Tertiary production after July 1, 1985 and before March 31, 2003 is exempt for (iii) for the first five years of production for a net tax of 4 percent.
- d. If carbon dioxide gas is used in the production of crude oil by tertiary techniques, the severance tax paid on the carbon dioxide gas is deducted from the tax due on the crude oil production.
- e. Crude oil or gas produced by a wildcat well between January 1, 1991 and December 31, 1994 is exempt from (iii) and (iv) for four years from the first date of production for a net tax of 2 percent.
- f. Crude oil or natural gas produced other than from collection wells between July 1, 1993 and March 31, 2001 is exempt from (iii) and (iv) for 2 years providing up to 60 barrels oil per day or 6 MCF of gas per day or until the price of oil equals or exceeds \$22.00 per barrel or the price of gas exceeds \$2.75 per MCF for the preceding six months. The net rate is 2 percent and this exemption cannot be used if c. or e. above is used.
- g. Incremental crude oil or natural gas production resulting from a work-over or re-completion of an oil or gas well between Jan. 1, 1997 and March 31, 2001 is exempt from (iii) and (iv) for 2 years. The net rate is 2 percent and this exemption cannot be used if c. or e. above is used.
- h. Crude oil produced from previously shut in wells is exempt from (ii), (iii) and (iv) for a period of 5 years or until the cost of a barrel of oil equals or exceeds \$25.00 for the previous 6 months. The net tax is 1.5 percent.
- i. Natural gas vented or flared or which is re-injected or consumed for the production of crude oil or natural gas on the same lease is not taxed.
- j. Natural gas that is produced under a certified gas research project is entitled to a 50 percent tax credit under (i), (ii) and (iii). Credit is limited to 50 percent of qualified expenditures with such expenditures not exceeding \$2MM per taxpayer. Credit would then be limited to \$1MM.

## Trona

- (i) Ad valorem and severance taxes – no exemptions, incentives or relief measures.

## Bentonite

- (i) Ad valorem and severance taxes – no exemptions, incentives or relief measures.

## Uranium

### (i) Severance taxes

- a. There is no severance tax on uranium production between January 1, 1995 and March 31, 2003 if the price of uranium is below \$14.00 per pound
  1. If the price is between \$14.00 and \$15.00 per pound the tax is 1 percent.
  2. If the price is between \$15.01 and \$16.00 per pound the tax is 2 percent.

3. If the price is between \$16.01 and \$17.99 per pound the tax is 3 percent.
4. If the price is between over \$18.00 per pound, the tax is 4 percent.

#### Sand and Gravel

- (i) Gravel owned and used by governmental entities for governmental purposes is exempt.

#### Other Valuable Deposits

- (i) Ad valorem and severance taxes – no exemptions, incentives or relief measures

### Administration

#### Administrator, Reporting and Payment Requirements

For Ad Valorem tax purposes, minerals are a state assessed property. The ad valorem tax relates to the ownership interest in the mineral removed, extracted, severed or produced, and the incidence of the tax is on all the interest owners in proportion to their ownership shares unless exempted by law. Annually, on or before February 25 of the year following the year of production, a signed sworn statement in a format prescribed by the department of revenue is submitted to the department. For solid mineral production the mine operator shall report the production and pay the taxes.

Royalty interest owners and non-operating working interest owners who do not elect to take their working interest share of production in-kind and market such production under a separate marketing arrangement are not allowed to separately report severance and gross products taxes. Such reporting resides with the operator. This also applies to any interest owner choosing to take in kind interest.<sup>1</sup> If the option to separately market is not exercised by the interest owner the operator shall report the interest owner's portion of the production and pay the taxes. The interest owner instead of reporting and paying the taxes on the production he has taken in kind, himself, may request in writing to the operator, that the operator report and remit the taxes for him. Oil and gas operators can request in writing a sixty day reporting extension prior to the February 25 statutory due date. This usually occurs. Either way the operator is required to report to the department of revenue all reports and information required including the identity of interest owners electing to take production in kind and the actual quantity or volume of production taken in kind.

There is a special reporting provision that requires coal producers to submit a copy of all sales agreements in excess of 10,000 tons to the department of revenue within 18 months of the date of agreement, unless the agreement is not publicly available.

By June 1, or as soon thereafter as possible, (July 1 per Department Rules, Chapter 6, Section 7, H) the Department of Revenue, Minerals Division must certify to the each county assessor the assessed value of minerals in each county. Annually, on or before October 10, the county treasurer must send a written statement of the total tax due, itemized as to the property description, assessed value and mill levies to each taxpayer at their last known address. Ad valorem taxes are paid to the county treasurer's office in which the taxes were levied. The taxes can be paid in two installments,

<sup>1</sup> Take in kind means the event when an election is made by an interest owner under a lease or joint operating agreement, with notice to the affected parties, to separately market or dispose of crude oil, natural gas or natural gas products. An interest owner must affirmatively exercise an option under a lease or operating agreement to separately market his share of the production to qualify as take in kind.

the first installment is due by November 10, and the second installment is due May 10, of the following year. If the taxpayer elects to pay in one installment, it is due by December 31 of the assessment year. The time span for the reporting, assessing and the paying of ad valorem taxes can create problems when it comes to the collection of the tax. The time line on page 7 shows the time that lapses between the actual production of the minerals and the time when property taxes are paid.



7

Jan	Dec	Feb 25, first year after production year	July 1, first year after production year	Oct. 10 first year after production year	Nov. 10 first year after production year	Dec. 31 first year after production year	May 10 second year after production year
Production Year							

Production report due to the  
Dept. of Revenue

Department of Revenue  
sends mineral assessed  
value to County assessors

Billing sent by County  
treasurer to taxpayer

First installment of taxes  
due.

Total taxes due  
if not paid in installments

Second installment of taxes  
due

If the taxpayer opts to pay the taxes in installments, two and half years could lapse from actual production to when the taxes are paid in full. This can be a problem for counties if for some reason the interest owner or the operator of the mineral production is no longer in business, unable to be contacted or cannot pay the taxes. The taxes go uncollected and enforcement provisions must be used.

The severance tax is an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state. The incidence of tax is upon all interest owners in proportionate to their ownership shares unless otherwise exempt by law. However, responsibility for reporting and payment resides with the operator or non-operating interest owner who has elected to take-in-kind provisions. Severance taxes are determined from the gross production in the current calendar year.

The taxpayer both reports production and pays severance taxes to the Department of Revenue. Severance tax reports on the previous month's production are due by the 25<sup>th</sup> of each month along with payment for the taxes. An extension can be given, if the department receives a written request five days prior to the due date. If an extension is granted, 90 percent of the estimated tax must still be paid by the statutory due date, with the remaining tax to be remitted with the extended return. Monthly reporting is not required if the taxes are less the \$30,000.00 in a calendar year. Annual reporting can then be used with the annual report due by February 25 on the previous year's production. Tax payment must be made when the report is submitted.

For solid mineral production the mine operator shall report the production and pay the taxes. For oil and gas, the gross product attributable to an working or non-working interest owner shall be remitted by the interest owner or may be remitted on behalf of the interest owner in proportion to his ownership interest by the operator. This also applies to any interest owner choosing to take-in-kind interest. If the option to separately market is not exercised by the interest owner, the operator shall report the interest owner's portion of the production and pay the taxes. The interest owner instead of reporting and paying the taxes on the production he has taken in kind, himself, may request in writing to the operator, that the operator report and remit the taxes for him. Either way the operator is required to report to the department of revenue all reports and information required including the identity of interest owners electing to take production in kind and the actual quantity or volume of production taken in kind.

For both ad valorem and severance tax reporting, in-kind production can create reconciliation problems. If the in-kind interest owner chooses to report his own gross value of production and pay his own taxes, many times the volume or quantity reported by the in-kind interest owners does not reconcile with the total reported by the operator. If the department cannot settle the difference, the matter will be heard by the Board of Equalization.

The form used to report production for ad valorem taxes is different from that used for severance taxes. The Mineral Tax Division staff reconcile volume and production information contained on the monthly severance returns with the same information reported on the annual gross products (ad valorem) return. This reconciliation effort takes place at three levels: Severance to Gross products match; Wyoming Oil and Gas Conservation Commission Form 2 to Annual Gross Products; and Operator/Take In-Kind Reconciliation. The Department of Audit performs audits of taxpayer returns. The scope of their audit includes the examination of return information in conjunction with production payment records of the taxpayer.

### Enforcement Provisions

If the necessary reports are not received for either ad valorem or severance taxes, the Department of Revenue can value the property from the best information available to determine the its fair market value.

Penalties are imposed for failure to file reports. For ad valorem taxes the penalty is 1 percent of the taxable value of the production not to exceed \$5,000.00 for each calendar month the report is late.

The penalty for failure to file a monthly severance tax report is a maximum of \$1,000.00. The penalty for failure to file an annual severance tax report is 5 percent of the taxes due for every thirty days the report is late. The penalty should not exceed 25 percent of the tax due. There is also penalties for a tax deficiency due to negligent or intentional disregard of rules and regulations. The department can waive severance tax and ad valorem penalties for good cause.

If severance taxes are not paid, the department can notify the purchaser of the mineral product to withhold and remit to the department the current taxes as they become due.

Ad valorem taxes become delinquent after the day on which they are due. County commissioners can calculate an interest rate of 18 percent on the net amount of deficient taxes due. The interest that accrues on delinquent severance taxes is the average prime interest rate as determined by the State Treasurer plus 4 percent. The interest rate will not be less than 12 percent or greater than 18 percent.

Liens can be filed for failure to remit taxes. For failure to remit payment of ad valorem taxes on minerals, a lien can be filed on the real and personal property owned by the person against whom the tax was assessed subject to all prior existing liens.

A lien for severance taxes is a lien superior to any other liens except federal liens, on the gross product, or sale proceeds therefrom, of the mine or mining claim from and after the time the minerals are extracted until the taxes are paid. There can also be a severance tax lien on the interest of any person extracting any valuable deposit from and after the time they are extracted until the taxes are paid. This tax lien shall have preference over all liens except any valid mortgage or other liens of record filed or recorded.

The Department of Revenue can request audits of companies reporting mineral production values to establish if; taxable volumes or values are accurately reported, clerical errors were made in determining taxable volumes or values, taxable values or volumes were not calculated following Wyoming statute or rules, and an additional payment for production was received and not reported. The Wyoming Department of Audit performs the audits requested. Any findings by the audit that results in a change in valuation must be certified to the county assessors.

The department must provide taxpayers with a 14 day written notice before an audit commences. Unless otherwise agreed to, the audit must be completed and findings reported to the taxpayer within two years after the audit begins. Any additional assessment, including penalties and interest, shall be issued within one year following the completion of the audit. The taxpayer after receiving the audit findings has 60 days to submit a response.

### Taxpayer Remedies

The taxpayer can request a value determination from the department and propose a value determination method. A taxpayer can also request and receive from the department interpretations of statutes and rules.

Following determination of the assessed value of minerals for ad valorem purposes, the department shall notify the taxpayer of the value. The taxpayer has thirty days to file an objection with the Board of Equalization and must at the same time file objections with the county treasurer where the property is assessed. The treasurer must notify the county assessor and the county commissioners of the appeal and provide an estimate of taxes under appeal based upon the previous year's tax levy.

A taxpayer can also appeal to the Board of Equalization the valuation of minerals for severance taxes. The appeal does not relieve the taxpayer from paying the taxes due nor does payment invalidate an appeal.

The Board of Equalization can hear appeals from affected taxpayers, boards of county commissioners and the Department of Revenue. Decision made by the Board of Equalization can be appealed to the district court of the county in which the property or some part of it is situated.

If ad valorem taxes are paid under protest with an appeal pending, the county treasurer should deposit the appealed amount in an interest bearing account and shall not distribute it until a decision is made. For appeals of severance taxes for which protest payment have been made, the state treasurer shall deposit the appealed amount in an interest bearing account until a decision is made.

The statutes provide for the distribution of refunds for overpayment of both ad valorem and severance taxes. The over-payment can be the result of refiled reports, determined by audit or be a result of the appeal process. Refunds can also be applied to future tax payments as prescribed by statute.

### Collection and Distribution

#### Collection

The past collection history and significance of mineral taxes for ad valorem purposes is discussed in the section on property taxes. The taxes are collected by the county treasurers and distributed by the county treasurers to the various taxing jurisdictions within the county according to the mill levies allowed.

The production and value of minerals have increased dramatically over the years. Table 4B shows the growth of mineral production in Wyoming from 1974-1997. Just as important as the rise in mineral production, is the rise in the tax rates that have been implemented by the legislature over the years. Table 4C shows a history of the severance tax rates in Wyoming. During the late 60's and early 70's, severance taxation was the same for all minerals, 1 percent of the value. In 1969, minerals did receive a break when the state legislature no longer levied the statewide mill levies authorized by the state constitution. In 1973, the primary minerals, except oil, began to see an increase in production and in the same year the legislature increased the severance tax rates. Refer to chart A, page 13.



**TABLE 4B**

	Oil Barrels	Gas MCF	Coal Tons	Trona Tons	Uranium Ore-Tons	Yellowcake-Pounds
1974	127,555,252	265,600,635	20,649,754	7,070,617	2,287,697	
1975	120,629,951	248,528,881	23,784,128	7,379,792	2,736,663	
1976	120,571,157	260,752,431	31,085,412	8,800,607	3,302,422	
1977	124,328,857	272,300,637	44,046,842	10,215,602	3,986,025	
1978	122,799,348	273,724,975	58,174,825	9,974,237	5,517,070	
1979	115,678,022	333,322,180	71,445,178	11,771,985	5,512,345	
1980	114,284,682	349,634,385	94,986,433	12,159,241	5,352,337	
1981	111,912,600	353,076,052	102,695,563	11,787,731	4,560,683	
1982	108,055,462	351,192,737	107,954,583	10,073,690	3,895,510	
1983	110,420,981	395,656,547	112,187,874	10,542,417	3,022,650	
1984	117,289,568	447,515,295	130,745,779	10,971,209	1,634,262	
1985	123,172,530	412,026,614	140,424,446	10,776,304	619,967	
1986	111,148,577	352,799,892	128,145,751	11,919,530	226,821	
1987	105,200,000	357,000,000	133,000,000	13,402,500	184,999	
1988	111,207,959	471,363,924	163,801,374	15,114,169	280,749	
1989	107,742,581	665,698,542	171,038,569	16,212,715		1,540,412
1990	86,388,844	690,356,068	183,908,400	16,231,527		1,331,935
1991	94,926,995	755,538,523	194,037,766	16,175,601		2,036,068
1992	84,640,058	765,253,721	190,025,252	16,407,911		1,606,438
1993	86,399,855	808,157,126	210,062,286	16,031,147		1,107,083
1994	75,963,900	884,365,795	236,948,922	16,128,501		1,207,421
1995	71,594,921	899,139,137	263,505,214	18,449,366		1,381,503
1996	68,905,892	907,954,365	278,272,409	18,550,633		1,911,514
1997	68,057,025	997,424,673	281,729,283	19,428,196		2,325,458

Most of the tax increases were put in place during the seventies. The year 1981 was the last year in which a mineral tax increases were enacted. Overall tax rates between 1981 and 1984 remained stable. In 1984 and 1985, rates were reduced for underground coal, oil collection wells, and tertiary oil production. In 1988, the coal severance rates for both strip mines and underground, and uranium were decreased. Several special exemptions, classifications and deductions were also enacted between 1985-1988, which have effectively reduced the tax burden to the mineral industry. Additional rate decreases and incentives were granted to the coal industry, trona industry and the petroleum industry in 1993. Though crude oil and uranium production continued to decrease, production of natural gas, coal and trona did steadily increase. The legislature was not responding to a decrease in mineral production when they decreased severance tax rates but to the market price of the mineral product. In 1999, the legislature gave additional rate decreases to the oil industry by allowing severance tax rate reductions for oil produced at \$20.00 or less a barrel.

Chart 4B, page 13 shows the average price used to determine the assessed value of oil, gas, coal, trona and uranium between 1974 to 1997. The general trend of the market value of these minerals has been downward. The production of gas, coal, and trona, however, has continued to show annual increases. The actual severance tax collections since 1985 have decreased. This is portrayed in chart 4C, page 14. The primary reasons for this decrease are the decline in production and market price of crude oil and uranium and a reduction in the market price of gas, coal, and trona. The decline in the valuation of production, is due to factors which are for the most part, outside of the control of either the state of Wyoming or the producers inside the state's boundaries.

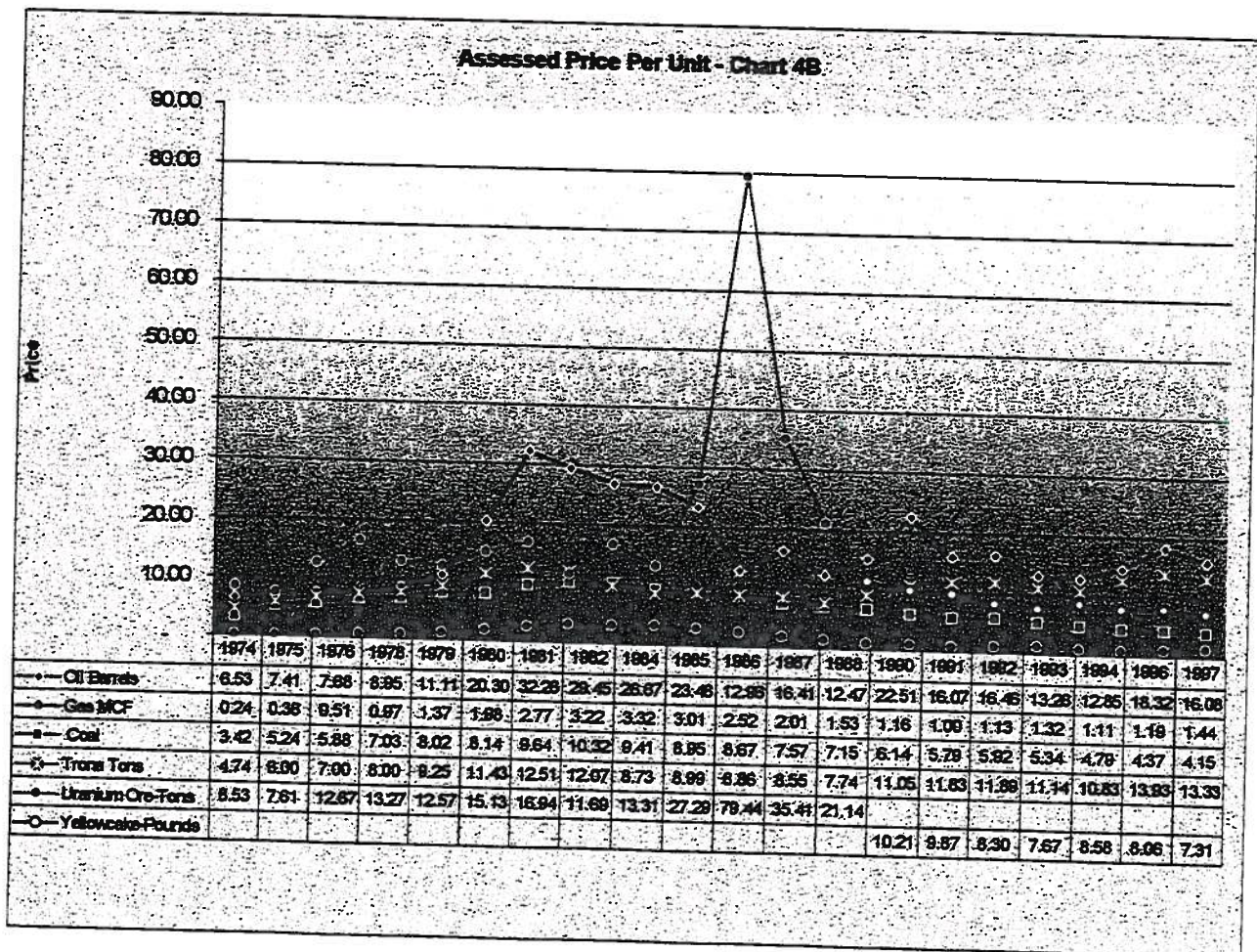
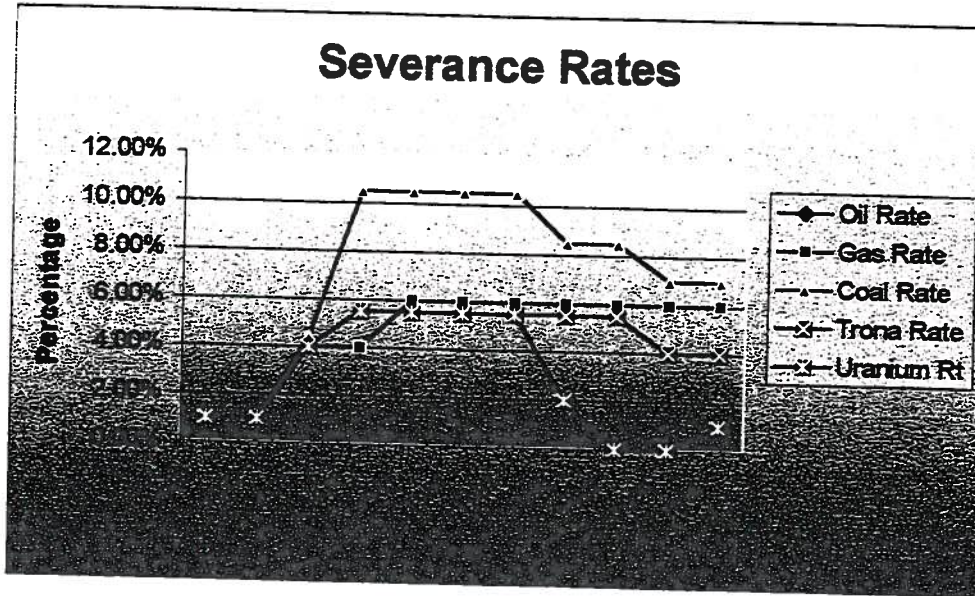


TABLE 4C

Year	Oil Stripper	Oil-Collection	Oil-Tertiary	Oil-Other	Gas-Tertiary	Gas-Other	Coal-Strip	Coal-Underground	Trona	Uranium	Other Mineral
1968	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
1970	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
1972	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
1973	1.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	1.0	1.0
1974	2.0	4.0	4.0	4.0	4.0	4.0	4.4	4.4	4.0	2.0	2.0
1976	2.0	4.0	4.0	4.0	4.0	4.0	9.7	9.7	5.5	5.5	2.0
1978	2.0	4.0	4.0	4.0	4.0	4.0	10.5 <sup>2</sup>	10.5	5.5	5.5	2.0
1981	4.0	6.0	6.0	6.0	6.0	6.0	10.5	10.5	5.5	5.5	2.0
1983	4.0	6.0	6.0	6.0	6.0	6.0	10.5	10.5	5.5	5.5	2.0
1984	4.0	6.0	6.0	6.0	6.0	6.0	10.5	7.25	5.5	5.5	2.0
1986	4.0	1.5	4.0	6.0	4.0	6.0	10.5	7.25	5.5	5.5	2.0
1989	4.0	1.5	4.0	6.0	4.0	6.0	8.5	5.25	5.5	2-4%	2.0
1992	4.0	1.5	4.0	6.0	4.0	6.0	8.5	5.25	5.5	0	2.0
1993	4.0	1.5	4.0	6.0	4.0	6.0	7.0	3.75	4.0	0	2.0
1996	4.0	1.5	4.0	6.0	4.0	6.0	7.0	3.75	4.0	0-3%	2.0
1998	4.0	1.5	4.0	6.0(4.0 if oil is under \$20. or less a barrel)							

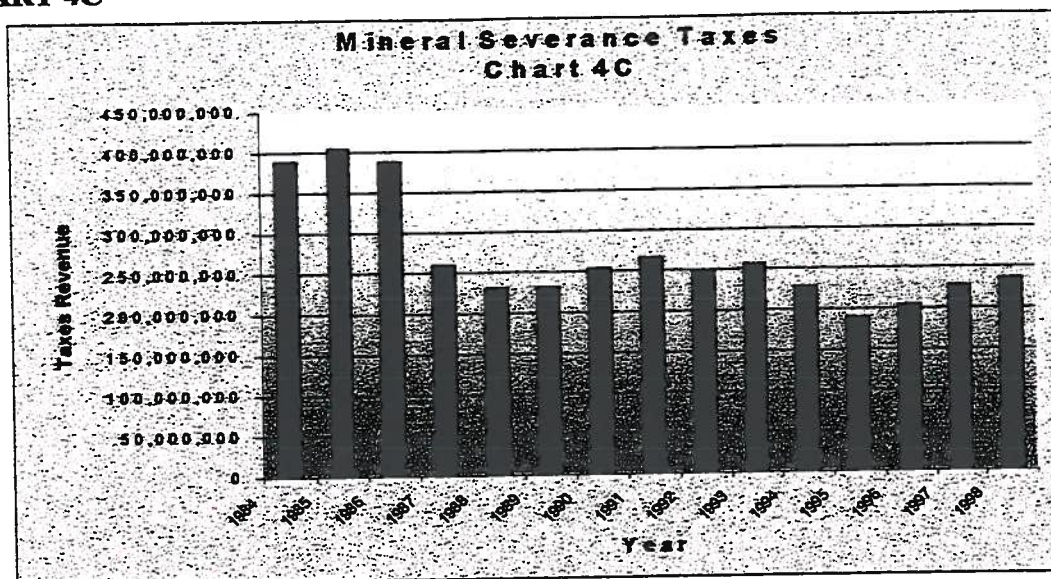
<sup>2</sup> The 10.5 percent coal severance tax was distributed in the following manner: 2.5 percent PWMTF, 1.5 percent Wyoming Department of Transportation, 1 percent State Highways, 2 percent General Fund, 1.5 percent Capital Facilities Tax, 2.0 percent Coal Impact Tax Fee. Source: Marion Loomis, Executive Director, Wyoming Mining Association, May 27, 1998, Gillette, Wyoming.

CHART 4A





**CHART 4C**



### Distribution

The two traditional justifications for the levying of severance taxes relate to resource depletion and energy development impact. In Wyoming the tax has been used more for impact mitigation, with the majority of the taxes earmarked for local governments, water development, highways and capital improvements. Resource depletion though has not been ignored. In 1974, Article 15, Section 19 of the Wyoming Constitution, was adopted by the legislature and approved by a vote of the people. This section provided for a severance tax of 1.5 percent on the value of the gross product of minerals extracted. The tax is in addition to any other excise tax on minerals and is to be deposited into the Permanent Mineral Trust Fund (PWWTF). The principle in this fund can never be spent. The monies are invested as prescribed by the state legislature. If allowed by the Legislature, the funds can be loaned to political subdivisions. The fund's earnings are deposited into the general fund by the state treasurer on an annual basis. The history of deposits and disbursements of this fund is shown in table 4H, page 17.

Each article in Chapter 14, Statute 39 specifically states how severance tax funds earned by a specific mineral are to be distributed. The formulas for trona, bentonite, uranium, sand and gravel and all other valuable deposits are straight forward and easily understood. The distribution formulas for coal and petroleum products are complicated.

Table 4D shows how the severance taxes earned on Trona, Bentonite, Uranium, Sand and Gravel and all other valuable deposits are distributed.

**TABLE 4D**

Trona		Bentonite	Uranium (varies with collections)		Sand & Gravel	All Other Deposits
Rate (i)	Rate (ii)	Rate (a)	Rate (i)	Rate (ii)	Rate (a)	Rate (a)
2%	2%	2%	2%	2%	2%	2%
Prior to 6/30/2000 Budget Reserve Account after which the PWMTF	State General Fund	State General Fund	Prior to 6/30/2000 Budget Reserve Account after which the PWMTF	State General Fund	State General Fund	State General Fund

Severance taxes earned from coal production are distributed according to Table 4E-4F.

**TABLE 4E**

Coal Severance Taxes- Above Ground Total Tax 7%					
Rate(i)	Rate(ii)	Rate(iii)	Rate(iv)	Rate(v)	Rate(vi)
1.5%	.5%	2%	1.5%	1%	.5%
PWMTF	Prior to 6/30/2004 Budget Reserve Account after which the PWMTF	State General Fund	Water Development Fund or State General Fund	(i)1.25% to Capital Const. Account (ii)2.25% to the State-County Road Fund (iii).625% to Counties (iv)Balance to the highway fund	Prior to 6/30/2004 Budget Reserve Account after which the PWMTF

**TABLE 4F**

Coal Severance Taxes- Below Ground Total Tax 3.75%		
Rate(i)	Rate(ii)	Rate(iii)
1.5%	1.25%	1%
PWMTF	State General Fund	(i)1.25% to Capital Const. Account (ii)2.25% to the State-County Road Fund (iii).625% to Counties (iv)Balance to the highway fund

Severance taxes earned from Oil and Gas are distributed according to Table 4G.

**TABLE 4G**

<b>Oil and Gas Severance Taxes</b>			
<b>Total Tax 6%</b>			
<b>Rate(i)</b>	<b>Rate(ii)</b>	<b>Rate(iii)</b>	<b>Rate(iv)</b>
1.5%	.5%	2%	2%
PWMTF	Prior to 6/30/2000 Budget Reserve Account after which the PWMTF	State General Fund	(i)3/8 to Cities & Towns (ii)1/8 to Counties (iii)1/3 Distributed as follows: (a)An amount equal to that collected in LUST fuel taxes to LUST accounts. (b)An amount to bring the State Park Road account fund to \$500,000. (c)Balance to the State Highway Fund (iv)1/12 Prior to 6/30/2000 to the Budget Reserve Account after which the PWMTF (v)1/12 to the Water Development Fund

It is interesting to note that the amounts distributed to cities, towns and counties are generated strictly from coal and oil and gas severance taxes. It must be understood that not all distributions are made at the full 6 percent for oil and gas or the 4 percent for uranium because of the exceptions that are allowed for these minerals.

Amounts distributed to the designated accounts from 1988 to 1997 are shown in table 4I, page 18. The instability shown in these distributions reflects the uncertainty of severance tax generation. This does violate one of the criteria of a preferred tax system, that of stability.



TABLE 4H

Year	Severance Tax Deposits	Fines & Forfeitures	Interest Earnings	Interest to General Fund	Balance
1974					0.00
1975	9,070,534.		361,804.		9,432,338.
1976	19,790,756.		342,153.	703,957.	28,861,290.
1977	22,845,050.		2,629,994.	2,629,995.	51,706,339.
1978	26,806,289.		3,483,189.	3,483,189.	78,512,628.
1979	36,537,587.		6,716,382.	6,716,382.	115,050,215.
1980	40,680,788.		11,992,118.	11,992,118.	155,731,003.
1981	52,597,909.		24,707,475.	18,408,875.	214,627,512.
1982	128,542,677.	14,426.	26,894,428.	26,121,955.	343,957,088.
1983	127,056,703.	-14,426.	48,723,474.	47,535,826.	472,187,013.
1984	126,052,631.	45,367.	56,170,521.	54,973,937.	599,481,595.
1985	131,436,950.		64,292,994.	67,815,059.	727,396,480.
1986	124,573,235.		70,985,945.	72,356,166.	850,599,494.
1987	62,469,489.		76,365,747.	74,925,726.	914,509,004.
1988	58,617,466.		78,424,035.	72,274,883.	979,275,622.
1989	50,788,173.	84,595.	81,694,739.	72,518,001.	1,039,325,128.
1990	56,348,413.	196,560.	86,123,351.	83,560,274.	1,098,433,178.
1991	59,529,207.	162,091.	93,849,608.	95,106,407.	1,156,867,677.
1992	53,234,067.		86,780,396.	92,724,655.	1,204,157,485.
1993	53,381,267.		94,230,245.	88,342,155.	1,263,426,842.
1994	76,163,898.		86,042,101.	109,095,543.	1,316,537,298.
1995	46,543,901.		85,608,439.	85,608,439.	1,363,081,199.
1996	44,144,890.		86,526,783.	86,526,783.	1,407,226,089.
1997	50,645,427.		92,221,049.	92,221,049.	1,457,871,516.
1998	64,055,864.		101,271,457.	101,271,457.	1,521,927,387.

TABLE 4I

## Severance Tax Distributions

Year	General	PWMTF	Cities, Towns Counties	Budget Reserve	Education	Com- pensation Reserve	Water		LUST <sup>3</sup> Accounts	Wyoming		Capital Facilities Account
							Development Funds	Fund		Highway Fund	Account	
1988	66,442,529	58,617,466	23,710,370	2,718,107			18,881,341			25,742,258	16,645,564	
1989	65,879,852	50,788,173	23,038,087	28,355,081			19,366,643			23,219,712	17,723,584	
1990	75,481,855	56,348,413	26,196,005	31,525,285			19,838,961			21,800,544	18,494,945	
1991	81,448,019	59,532,144	28,067,682	33,252,405			20,904,215			23,223,371	19,045,328	
1992	70,716,330	53,234,067	22,640,452	31,428,737			24,322,222		2,904,536	21,448,514	21,606,142	
1993	67,762,034	53,381,267	23,312,006	44,976,123	10,175,147	1,399,322	20,042,968		6,768,414	9,801,190	19,693,024	
1994	66,975,733	51,963,898	22,787,185	39,069,045			19,670,194		6,503,039	18,230,924	0	
1995	57,892,926	43,400,425	16,966,251	29,233,577			18,502,473		7,330,216	14,739,195	323,879	
1996	64,234,238	48,754,014	18,715,495	29,841,991			20,235,137		5,343,586	17,576,837	121,461	
1997	72,707,640	56,747,014	23,450,208	33,499,478			20,810,450		8,584,975	17,382,751	41,474	
1998	75,171,024	56,707,432	21,542,519	34,116,785			23,337,660		7,660,595	19,194,741	188,523	
<b>Total</b>	<b>764,712,180</b>	<b>613,452,573</b>	<b>250,426,260</b>	<b>338,016,614</b>	<b>10,175,147</b>	<b>1,399,322</b>	<b>225,912,264</b>		<b>45,095,361</b>	<b>212,360,037</b>	<b>113,883,924</b>	

<sup>3</sup> The Wyoming Constitution Article 15, Section 16 requires all monies raised from fuel taxes to be used on the State roads and highways. The money distributed from severance taxes to the Leaking Underground Storage Tank (LUST) fund is offset by the one (1) cent LUST tax collected in the gasoline and fuel tax.

## SALES AND USE TAX COMPOSITION

### Statute Citations and Tax Basis – Sales and Use Tax

The Statute that governs the imposition, administration, exemptions, rates, collection and distribution of sale tax is Wyoming § 39-15-101/311. The Statute that governs the imposition, administration, exemptions, rates, collection and distribution of use tax is Wyoming § 39-16-101/311. Most taxpayers understand what a sales tax is but there is confusion as to what a use tax is and who pays it. The Wyoming Department of Revenue, Excise Division, Guide to Sales and Use Tax, states that the use tax is complimentary to the sales tax and is applied to out-of-state purchases. Use tax places Wyoming merchants on an equal footing with out-of-state vendors who do not collect Wyoming's sales tax. Consumers making purchases outside the state must pay use tax if no sales tax is paid at the time of purchase in the state of purchase. This would include catalog and internet purchases for which there is no sales tax paid, as well as purchases made in states such as Montana who do not assess a sales tax and deliveries from out-of-state vendors to Wyoming residents for which a collection of sales tax was not made.

Both sales and use tax is an excise tax that is imposed on the retail sale of tangible personal property and certain services. The rental or lease fee of tangible personal property is assessed the excise tax. Motor vehicles, house trailers, trailer coaches, trailers or semi-trailers, computer hardware and operating and canned software are taxed.

Services that are taxed include the sale price paid for intrastate telephone and telegraph service, intrastate transportation of passengers, the provision of electrical and gas utility service, and restaurant and lodging services. The price of admission to places of amusement, entertainment, recreation, games or athletic events is taxed. Contracts for seismographic and geophysical surveying, geographical exploration for oil and gas and oil field services are specifically addressed for taxation. The price paid for services performed for the repair, alteration or improvement of tangible personal property is taxed. Charges for labor to alter, improve, or construct real property are not subject to the sales and use taxes.

Table 5A lists the services in Wyoming currently subject to sales and use tax.<sup>1</sup> These services are either specifically listed by statute to be taxed or fall into the category of "the price paid for services performed for the repair, alteration or improvement of tangible personal property".

Table 5B presents information on the number of services each state taxes by service category.<sup>2</sup> According to the table, Wyoming taxes 63 services and ranks eighteenth in the nation for number of services taxed.

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<sup>1</sup> Published by the Wyoming Taxpayer's Association in the WTA Fiscal Researcher, April 23, 1998, p.4

<sup>2</sup> Published by the Wyoming Taxpayer's Association in the WTA Fiscal Researcher, April 23, 1998, p.3.

## SERVICES TAXED IN WYOMING

	# States Taxing		# States Taxing
<b>Industrial and Mining Services</b>		<b>Automotive Services (cont.)</b>	
Seismograph and geophysical services (a)	7	Auto service, except repairs, incl. painting & lube	22
Oil field services	11	Automotive rustproofing and undercoating	25
<b>Transportation Services</b>		<b>Admissions and Amusements</b>	
Income from intrastate transportation of persons	11	Pari-Mutuel racing events (h)	28
Local transit (intra-city) buses	5	Amusement park admission and rides (i)	35
Income from taxi operations	8	Circuses and fairs - admission and games (i)	33
<b>Storage</b>		Admission to school and college sports events (i)	24
Marina Service (docking, storage, cleaning, repair) (b)	20	Admission to cultural events (i)	31
<b>Utility Service - Industrial Use</b>		Admission to professional sports events (i)	34
Intrastate telephone and telegraph	43	Rental of video tapes for home viewing	44
Cellular telephones (c)	40	<b>Leases and Rentals</b>	
Electricity (d)	36	Personal property, short term (generally)	44
Water (e)	19	Personal property, long term (generally)	44
Natural gas (d)	38	Bulldozers, draglines and const. mach., short term	44
Other fuel (including heating oil) (d)	38	Bulldozers, draglines and const. mach., long term	44
<b>Utility Service - Residential Use</b>		Rental of hand tools to licensed contractors	44
Intrastate telephone and telegraph	41	Short-term automobile rental	44
Cellular telephone services (c)	40	Long-term automobile lease	37
Electricity	23	Limousine service (with driver)	13
Natural gas	23	Aircraft rental to individual pilots, short term	43
Other fuel (including heating oil)	23	Aircraft rental to individual pilots, long term	42
<b>Services - Personal Services</b>		Chartered flights (with pilot) (i)	10
Diaper service	23	Hotels, motels, lodging houses	48
Garment services (altering and repairing)	18	Trailer parks - overnight	28
Gift and package wrapping service	17	<b>Fabrication, Installation and Repair Services</b>	
Laundry and dry cleaning services, coin-operated	8	Custom fabrication labor	38
Laundry and dry cleaning services, non-coin-operated	20	Repair material, generally	45
Shoe repair	20	Repair labor, generally	22
Tuxedo rental	38	Labor charges on repair of aircraft	19
<b>Services - Business Services</b>		Labor charges - repairs to interstate vessels (k)	12
Commercial art and graphic design (f)	19	Labor charges - repairs to intrastate vessels	19
Commercial linen supply	31	Labor - repairs to commercial fishing vessels	14
Photocopying services	41	Labor charges on repairs to motor vehicles	21
Photo finishing	43	Labor on radio/TV repairs; other electronic equip.	22
Printing	44	Labor charges - repairs other tangible property	22
Tire recapping and repairing	24	Labor charges on repairs delivered under warranty	6
<b>Computer</b>		Installation charges by persons selling property (i)	21
Software - packaged or canned program	44	Installation charges - other than seller of goods (i)	16
Software - modifications to canned program	33	Custom processing (on customer's property)	26
Software - custom programs - material	26	Custom meat slaughtering, cutting and wrapping	12
<b>Automotive Services</b>		Taxidermy	28
Automotive washing and waxing	21	Welding labor (fabrication and repair) (m)	30
Automotive road service and towing services (g)	15		

## Wyoming Notes:

- (a) Stratigraphic test or core hole drilling exempt when done for the purpose of obtaining geologic information pertaining to minerals other than oil or gas.  
 (b) Except dock storage.  
 (c) Intrastate telephone services taxable.  
 (d) Manufacturing, processing and agricultural use exempt.  
 (e) Exempt when sold for oil and gas well drilling and for maintaining oil and gas fields or through pipeline.  
 (f) If tangible personal property is sold.

(g) If repairs are also performed.

(h) Taxable under separate admission tax statutes.

(i) Admissions to county- or municipally-owned facilities are exempt.

(j) Intrastate transportation of passengers is taxable, interstate exempt.

(k) Wyoming, having no commercial waterways, has no interstate vessel trade.

(l) Labor services on real property exempt.

(m) Taxable when performed on tangible personal property.

Source: Federation of Tax Administrators

TABLE 5A

NUMBER OF SERVICES TAXED BY CATEGORY AND STATE										
Service Category:	Utilities	Personal Services	Business Services	Computer Services	Professional Services	Fabrication, Repair & Installation	Admission/Amusement	Other Services	Total	Rank
Total In Category:	16	20	34	6	8	18	14	47	184	
Hawaii	16	20	34	6	8	18	13	42	157	1
Washington	16	20	34	6	8	15	10	43	152	2
New Mexico	16	20	32	6	8	18	13	39	152	
Delaware	9	20	33	6	8	19	10	37	142	4
South Dakota	12	19	28	6	4	18	12	42	141	5
West Virginia	10	17	26	4	1	13	13	28	110	6
Iowa	13	15	18	0	0	14	13	21	94	7
Connecticut	10	11	20	6	0	14	13	13	87	8
Texas	12	11	14	6	1	11	10	13	78	9
Kansas	10	10	9	2	0	16	13	16	76	10
New York	9	5	15	4	0	16	7	18	74	11
Tennessee	11	11	6	3	0	14	12	14	71	12
Mississippi	8	4	8	3	0	14	10	23	70	13
Wisconsin	11	11	6	1	0	14	13	13	69	14
Arkansas	14	6	11	1	0	11	11	11	65	15
Florida	7	4	8	2	0	16	13	14	64	16
WYOMING	11	7	6	2	0	16	7	14	63	17
Pennsylvania	8	8	17	8	0	15	1	8	61	18
Minnesota	15	6	11	2	0	4	13	10	61	
Louisiana	12	9	5	3	0	13	8	8	58	20
Arizona	12	2	5	1	0	2	11	24	57	21
Utah	7	8	6	0	0	15	9	9	54	22
Ohio	8	7	14	3	0	12	2	6	52	23
New Jersey	6	2	10	0	0	14	6	12	50	24
Nebraska	14	6	6	3	0	5	11	4	49	25
Maryland	5	3	13	1	0	4	11	2	38	26
Georgia	10	3	3	2	0	2	8	6	34	27
South Carolina	4	5	6	4	0	1	9	3	32	28
Alabama	9	2	6	1	0	1	10	3	32	
Oklahoma	8	1	4	2	0	0	11	6	32	
Idaho	0	3	4	0	0	6	11	5	29	31
Michigan	12	4	7	1	0	2	1	2	29	
Rhode Island	10	1	6	3	0	3	3	2	28	33
North Carolina	10	4	4	1	0	1	7	1	28	
Missouri	8	1	2	1	0	0	11	5	28	
Maine	9	1	6	3	0	4	2	2	27	36
Kentucky	10	2	4	0	0	3	6	1	28	37
North Dakota	6	1	4	0	0	1	11	2	25	38
Vermont	3	2	4	1	0	2	10	1	23	39
Indiana	8	4	2	2	0	0	2	4	22	40
Massachusetts	9	1	4	0	0	2	1	3	20	41
Montana	12	0	0	0	0	0	3	4	19	42
Virginia	1	3	4	0	0	4	1	5	18	43
Illinois	12	1	1	1	0	1	0	1	17	44
Colorado	4	0	2	1	0	3	2	2	14	45
California	5	2	3	0	0	0	0	3	13	46
New Hampshire	8	1	0	0	0	0	0	2	11	47
Nevada	0	1	4	0	0	2	1	3	11	
Alaska	0	0	0	0	0	0	0	1	1	49
Oregon	0	0	0	0	0	0	0	0	0	50

Source: Federation of Tax Administrators

TABLE 5B

The actual taxpayer is the purchaser of the good or service. The remitter of the tax in most instances is the vendor who sells the taxable good or provides the service. The vendor collects



the tax on the sales price <sup>3</sup> from the purchaser at the time the good is sold or the service is rendered. By Wyoming § 39-15/16-107(b)(i), the sales or use tax is not to be collected by the vendor of a motor vehicle, house trailer, trailer coaches, trailers and semi-trailers. The purchaser must pay the tax directly to the county treasurer. Vendors who sell motorcycles, mopeds, boats, three and four-wheelers, and other off-road recreational vehicles are required to collect the sales tax at the time of sale.

In 1998, the legislature ratified by statute a practice of the Wyoming Department of Revenue of permitting certain large taxpayers to pay sales taxes directly to the Department of Revenue rather than remitting them first to a vendor for payment.

The purchaser is required to pay the use tax when the out-of-state vendor does not collect Wyoming sales tax. The purchaser does not have to pay a use tax if he pays the sales tax of the state of purchase. If the tax is less than Wyoming's sales tax, the purchaser must pay the difference between the two taxes to the State of Wyoming as a use tax.

There are special requirements for contractors under Wyoming § 39-15/16-301/311. Any contractor, prime or sub, who furnishes tangible personal property under contract or in the development of real property, is the consumer or user of the tangible personal property within the sales tax laws of Wyoming. In other words, the contractor must pay sales tax on the materials, fixtures and supplies used in his work. Contractors do not pay sales tax on labor performed on real property but they do on labor performed on tangible personal property. The contractor can pay the sales tax to the vendor, or he can pay it directly to the Department of Revenue. Prime contractors are responsible for assuring that sub-contractors pay the taxes due.

### **Tax Exemptions**

The State of Wyoming assesses sales and use taxes on the sale of tangible personal property and specified services. Specified services are primarily related to a service that is performed on tangible personal property. For example, the state taxes the labor a mechanic performs on the repair of an automobile. The law also states we must tax certain services even though they are not a service on tangible personal property. These services include taxation of telephone, telegraph, utility and transportation services, oilfield services and admissions and amusements.

With regards to sales and use tax exemptions, the difference must be explained between what is a specific written exemption and an exemption that is not written into the law, but because the law does not state it is to be taxed, receives exemption status. An example of a written exemption would be the wholesale sales and tangible personal property consumed in production.

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<sup>3</sup> The definition of sales price by Wyoming § 39-15-101 (a)(vi) is the consideration paid by the purchaser of tangible personal property excluding the actual trade-in value allowed on tangible personal property exchanged at the time of transaction, admissions or services which are subject to taxation as provided by this article and excluding any taxes imposed by the federal government or this article.

Many services are not taxed because they do not fall in the category of those services "performed for the repair, alteration or improvement of tangible personal property" (Wyoming § 39-15-103(a)(i)(J)). They are considered exempt even though there is no written exemption. Examples of these services are professional services such as those performed by CPA's and attorneys.

The written exemptions in the Wyoming's Sales tax law are stated in Wyoming § 39-15-105 and 39-16-105. The Wyoming State Legislature classified these exemptions in 1994.

- 1) Sales of services and tangible personal property which are protected by the Constitutions of the United States or Wyoming.
- 2) Sales of services and tangible personal property protected by federal law:
  - a) Interstate transportation of freight or transportation.
  - b) Sales of transportation equipment (i.e. railroad rolling stock, aircraft, trucks, and tractor-trailer units) that operates in interstate commerce.
  - c) Leases of motor vehicles and trailers for which the rental is paid from the gross receipts of the operation and the operator holds an interstate authority or permit.
  - d) Sales to the Wyoming joint apprenticeship and training programs approved by the United States Department of Labor.
  - e) Sales of food purchased with food stamps.
- 3) Sales of services and tangible personal property consumed in production:
  - a) Sale of tangible personal property when it is to become an ingredient or component of tangible personal property that is going to be held for sale. The purchase of containers, labels or shipping cases for tangible personal property are not subject to sales taxation.
  - b) Sale of livestock is not taxed. Sales of feeds for use in the feeding of livestock or poultry for marketing purposes is exempt. The State exempts the sales of seeds, roots, bulbs, small plants and fertilizer planted or applied to land if the end products are to be sold or used subject to a state or federal crop set aside program.
  - c) Intrastate transportation of raw farm products to processing or manufacturing plants.
  - d) Sales of power or fuel to a person engaged in the manufacturing, processing, agriculture and oil field production when the power is consumed directly in manufacturing, processing, agriculture or oil production.
  - e) Sales of power or fuel to a person engaged in the transportation business when the same is consumed directly for actual transportation purposes. This exemption does not apply if the power or fuel is not taxed as gasoline, gasohol or special fuels and is used to propel a motor vehicle on the highway.
  - f) Wholesale sales.
- 4) Sales of services and tangible personal property sold to a government, nonprofit organization, irrigation districts and weed and pest control districts.
  - a) Sales to the State of Wyoming and its political subdivisions.
  - b) Sales made to religious or charitable organizations including non-profit senior citizen meal providers. The organization must be conducting religious, charitable or senior citizen functions. Sales of meals to senior citizens by senior citizen centers are not taxed.

- c) Occasional sales made by religious or charitable organizations for fund raising purposes to conduct religious or charitable functions or activities.
  - d) Sales to joint powers board organized under the Wyoming Joint Powers Act.
  - e) Sales price of admission or user fees for county or municipal owned recreation facilities.
  - f) Labor or service charges, including transportation and travel, for the repair, alteration or improvement of real property or tangible personal property owned by, or incorporated in projects under contract to the State of Wyoming or any of its political subdivisions.
  - g) Sales to irrigation districts organized under state law.
  - h) Sales to weed and pest district organized under state law.
- 5) Sales of services and tangible personal property which are alternatively taxed:
- a) Transportable mobile homes permanently attached to realty after the tax has once been paid.
  - b) Sales of gasoline, gasohol or special fuels. Sales tax is paid on the sales price of off-road diesel.
- 6) Sales of services and tangible personal property which are essential human goods and services:
- a) Intrastate transportation of sick or deceased persons in a hearse or ambulance.
  - b) Sales of prescription drugs and other devices used for human relief, i.e. hearing aids, prosthetic devices, wheel chairs, crutches and eyeglasses.
  - c) Sales of all non-capitalized equipment and disposable supplies which are used in the direct medical or dental care of a patient.
- 7) Sales of services provided primarily to the following businesses:
- a) Services provided for interstate or intrastate transportation of drilling rigs and for the loading, unloading and assembly of drilling rigs.
  - b) Persons engaged in the business of making loans or supervised financial institutions do not have to pay sales tax on vehicles they repossess for non-payment of a loan.
- 8) Exceptions of sales of tangible personal property or services for economic incentives:
- a) Intrastate transportation by a public utility or others:
    - 1. Employees to or from work when paid or contracted by the employee or employer.
    - 2. Freight and property including oil and gas by pipeline.
  - b) Sales of the services of professional engineers, geologists or similar professions and charges made by contractors for oil or gas drilling activities for new exploration, or to deepen existing wells below the depth previously drilled or for drilling stratigraphic test or core holes to obtain geologic information.
  - c) Sales of newspapers and school annuals.
  - d) Sales of tangible personal property or sales for the repair, assembly, alteration or improvement of railroad moving stock.
  - e) Sales of carbon dioxide or other gases used in tertiary production.
  - f) Sales of lodging services provided by a person known to the trade and public as a guide or outfitter.
  - g) Sales of farm implements are not subject to the additional one percent statewide sales tax that went into effect July 1, 1993. Sales of farm implements are taxed at 3 percent plus

any applicable optional sales taxes instead of the 4 percent statewide tax on tangible personal property and services.

- h) Sale or lease of any aircraft and the tangible personal property permanently affixed or attached as a component part of the aircraft.

Wyoming does tax food purchases not purchased with food stamps. This is a common exemption adopted by many states. Twenty-seven of fifty states and the District of Columbia exempt food sales from taxation. Table 5E, page 12 under tax rates describes which states currently exempt food sales, prescription drugs and non-prescription drugs. Another common exemption that other states allow that Wyoming does tax is utility service to residences. Twenty-three states including Wyoming tax residential utility service for electricity, natural gas and other fuel.

Table 5C lists the services exempt from sales and use tax in Wyoming.<sup>4</sup>

If you combine the written exemptions and those considered exempt because they are not taxed by statute, there are over 100 exemptions and growing. Each time a new service is offered by some enterprising individual that is not performed on tangible personal property, it becomes exempt.

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<sup>4</sup> Published by the Wyoming Taxpayer's Association in the WTA Fiscal Researcher, April 23, 1998, p.5.

## SERVICES EXEMPT IN WYOMING

	# States Exempting		# States Exempting
<b>Agricultural Services</b>		<b>Services - Business Services</b>	
Soil prep., custom baling, other agricultural services	46	Sales of advertising time or space:	
Veterinary services (both large and small animals)	45	Billboards	46
Horse boarding and training (not race horses)	43	Radio and television, national advertising	47
Pet grooming	34	Radio and television, local advertising	46
Landscaping services (including lawn care)	32	Newspapers	46
<b>Industrial and Mining Services</b>		Magazines	46
Metal, non-metal and coal mining services	44	Advertising agency fees (not ad placement)	39
Typesetting service; platemaking for the print trade	31	Armored car services	36
<b>Construction</b>		Bail bond fees	46
Gross income of construction contractors	39	Check and debt collection	41
Carpentry, painting, plumbing and similar trades	37	Credit information, credit bureaus	37
Construction service (grading, excavating, etc.)	39	Employment agencies	40
Water well drilling	40	Interior design and decorating	41
<b>Transportation Services</b>		Maintenance and janitorial services	33
Intrastate courier service	44	Lobbying and consulting	43
Interstate air courier (billed in-state)	49	Marketing	44
<b>Storage</b>		Packing and crating	42
Automotive storage	32	Exterminating (includes termite services)	33
Food storage	40	Private investigation (detective) services	37
Fur storage	35	Process server fees	44
Household goods storage	38	Public relations, management consulting	43
Mini-storage	41	Secretarial and court reporting services	41
Cold storage	37	Security services	36
Marine towing service (incl. tugboats)	43	Sign construction and installation	28
Travel agent services	47	Telemarketing services on contract	44
Packing and crating	41	Telephone answering service	32
<b>Utility Service - Industrial Use</b>		Temporary help agencies	40
Interstate telephone and telegraph	30	Test laboratories (excluding medical)	42
Sewer and refuse, industrial	37	Window cleaning	34
<b>Utility Service - Residential Use</b>		<b>Computer</b>	
Interstate telephone and telegraph	31	Software - custom programs - professional serv.	35
Water	(a) 37	Information services	37
Sewer and refuse, residential	39	Data processing services	40
<b>Finance, Insurance and Real Estate</b>		Mainframe computer access and processing serv.	40
Service charges of banking institutions	47	<b>Automotive Services</b>	
Insurance services	44	Parking lots and garages	31
Investment counseling	44	<b>Admissions and Amusements</b>	
Loan broker fees	46	Billiard parlors	22
Property sales agents (real estate or personal)	45	Bowling alleys	22
Real estate management fees (rental agents)	44	Cable TV services	27
Real estate title abstract services	44	Coin-operated video games	31
Ticker tape reporting (financial reporting)	42	Membership fees in private clubs	28
<b>Services - Personal Services</b>		Pinball and other mechanical amusements	29
Barber shops and beauty parlors	44	Rental of films and tapes by theaters	(e) 42
Carpet and upholstery cleaning	(b) 35	<b>Professional Services</b>	
Dating services	40	Accounting and bookkeeping	45
Debt counseling	43	Attorneys	45
Income from funeral services	(c) 36	Dentists	46
Fishing and hunting guide services	40	Engineers	45
Health clubs, tanning parlors, reducing salons	30	Land surveying	43
Massage services	40	Medical test laboratories	46
800 Number services	(d) 28	Nursing services out-of-hospital	46
Personal instruction (dance, golf, tennis, etc.)	43	Physicians	46
Swimming pool cleaning and maintenance	34	<b>Fabrication, Installation and Repair Services</b>	
Tax return preparation	44	Labor charges on repairs to railroad rolling stock	37
Water softening and conditioning	36	Labor - repairs or remodeling of real property	(f) 37
		Service contracts sold at the time of sale of TPP	22

## Wyoming Notes:

- (a) Water sold in bottles is taxable.  
 (b) Taxable if performed on tangible personal property.  
 (c) Tangible personal property sold is taxed. If funeral director charges fee who listing TPP separately, tax is computed on total charge made for the service.

- (d) Intrastate telephone service taxable.  
 (e) Taxable only if no admission is charged.  
 (f) Contractor is deemed retail consumer of materials used.

Source: Federation of Tax Administrators

Table 5C



## Rates

The first recorded sales tax in Wyoming history were limited to a four cents a gallon tax on the sale of gasoline and a tax of ten cents a pound on sales of vegetable oleomargarine.<sup>5</sup> Wyoming enacted its sales and use tax, largely in its present form in 1967. The tax rate prior to 1967 was 2.5 percent, moving to 3 percent in that year. On July 1, 1993, the tax rate was increased to 4 percent. This additional one-percent will terminate on June 30, 2002, unless it is extended by the state legislature (Wyoming § 39-15-104(c)).

In addition to the 4 percent statewide sales and use tax rates, in 1973 a sales and use tax option was made available to counties to be used for general revenue. Counties can levy the tax in increments of .5 percent not to exceed one-percent. Initially, the tax can be proposed by a petition presented to the county commissioners signed by 5 percent of the electorate of the county voting at the last general election or with approval of two-thirds of the governing bodies of the incorporated municipalities within the county. Once the tax is proposed, it must be approved by a majority of the electorate of the county. The tax can be renewed in one of two ways: (1) Depending on the original resolution, the tax can be renewed each general election, every two years or at every other general election, every four years, by a vote of the electorate of the county. (2) Once the tax is imposed by the vote of the electorate of the county, it can be renewed by a resolution approved by the governing board of the county and by an ordinance approved by the majority of the governing bodies of the municipalities within the county. Method two has never been used. (Wyoming § 39-15-16-201/211)(i).

In 1984, the legislature allowed counties upon majority vote of the electorate, to assess another one-percent sales tax for construction of capital facilities. The tax, when proposed, must be for specific construction projects and for a specific amount of time. The amount of time the tax is assessed is based upon the time it is estimated it will take to collect the tax to either pay for the projects or to pay off bonds issued for the projects. (Wyoming § 39-15-16-201/211)(iii).

An optional lodging tax was allowed in 1986 by the state legislature. Initially, the tax can be proposed by a petition presented to the county commissioners signed by 5 percent of the electorate of the county voting at the last general election or with approval of two-thirds of the governing bodies of the incorporated municipalities within the county. The tax must be adopted by the majority vote of the electorate of a Wyoming county or a municipality within the county. The tax can be levied in increments of one-percent not to exceed 4 percent. The tax is levied against lodging services<sup>6</sup> and is paid by transient guests<sup>7</sup>. (Wyoming § 39-15-16-201/211)(ii).

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<sup>5</sup> Griffenhagen & Associates, *Report Made to the Special Legislative Committee on Organization and Revenue*, 1933, p. 566.

<sup>6</sup> Lodging service means the provision of sleeping accommodations to transient guests and shall include the providing of sites for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations for transient guests. Wyoming § 39-15-101(a)(i).

<sup>7</sup> A transient guest is a guest who remains for less than 30 continuous days. Wyoming § 39-15-101(a)(xi).

Until 1998, the tax collected was to be used only for travel and tourist promotion with the possibility of 10 percent of the revenues going to the general revenues of the governmental entity. The 1998 legislature allowed as much as 30 percent of the revenues generated to be used for the mitigation of visitor impact services. Depending on the percentage of the tax levied, a certain amount of lodging tax collections for the previous three years must be collected before the tax money can be used to defer tourism impacts.<sup>8</sup>

The lodging tax can be renewed by submitting it to the vote of the electorate at a general election held every four years.

Table 5D, page 11 issued by the Wyoming Department of Revenue, Excise Tax Division shows the sales tax rates for the individual Wyoming counties and towns as of January 1, 1999.

Table 5E, page 12 shows as of January 1, 1999 the sales tax rate in each state and the states that allow exemptions for food, prescription drugs and non-prescription drugs.<sup>9</sup> The tax rates shown only reflect the statewide rates for each state and do not include optional local sale tax rates.

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<sup>8</sup> One percent rate - \$500,000.00 in collections for the previous 3 years, 2 percent rate-\$1,000,000.00 in collections for the previous 3 years, 2 percent rate-\$1,500,000.00 in collections for the previous 3 years, 2 percent rate-\$2,000,000.00 in collections for the previous 3 years.

<sup>9</sup> Data from the U.S. Department of Commerce, Census Bureau and published by the Federation of Tax Administrators, 444 north Capitol Street, N.W., Washington, D.C. 20001. Information was obtained from the website of the Federal Tax Administrators, [www.taxadmin.org](http://www.taxadmin.org)

Table 5D

# WYOMING SALES AND USE TAX RATES

The tax rate table listed below is effective January 1, 1999.

Co #	County	Base State Tax Rate		General Purpose County Option Tax Rate		Specific Purpose Option Tax		Total Rate for General Sales	County/City/Town Lodging Tax	Lodging Option Tax Rate		Total rate for Lodging and Sales
05	Albany	4%	+	1%	+	1%	=	6%	Albany	3%	=	9%
09	Big Horn	4%	+	1%	+		=	5%	Lovell, only	2%	=	7%
17	Campbell	4%	+	1%	+		=	5%	Greybull, only	2%	=	7%
06	Carbon	4%	+	1%	+	1%	=	6%	Gillette, only	2%	=	7%
13	Converse	4%	+	1%	+		=	5%	Carbon	2%	=	8%
18	Crook	4%	+	1%	+		=	5%	Converse	2%	=	7%
10	Fremont	4%	+		+	1%	=	5%	Crook	2%	=	7%
07	Goshen	4%	+		+	1%	=	5%	Fremont	2%	=	7%
15	Hot Springs	4%	+	1%	+		=	5%	Goshen	3%	=	8%
16	Johnson	4%	+	1%	+		=	5%	Hot Springs	2%	=	7%
02	Laramie	4%	+	1%	+		=	5%	Johnson	2%	=	7%
12	Lincoln	4%	+	1%	+		=	5%	Laramie	2%	=	7%
01	Natrona	4%	+	1%	+		=	5%	Cokeville, only	2%	=	7%
14	Niobrara	4%	+	1%	+	1%	=	6%	Afton, only	2%	=	7%
11	Park	4%	+		+		=	4%	Natrona	2%	=	7%
08	Platte	4%	+	1%	+		=	5%	Lusk, only	2%	=	8%
03	Sheridan	4%	+	1%	+	1%	=	6%	Park	4%	=	8%
04	Sweetwater	4%	+	1%	+		=	5%	Guernsey, only	2%	=	7%
23	Sublette	4%	+		+		=	4%	Sheridan, only	2%	=	8%
22	Teton	4%	+	1%	+	1%	=	6%	Sweetwater	2%	=	7%
19	Uinta	4%	+	1%	+		=	5%			=	4%
20	Washakie	4%	+		+		=	4%			=	6%
21	Weston	4%	+	1%	+		=	5%	Evanston, only	2%	=	7%
									Washakie	2%	=	6%
									Weston	2%	=	7%

TABLE 5E

**State Sales Tax Rates**  
January 1, 1999

State	Tax Rates	- Exemptions -		
		Food	Prescription Drugs	Non-prescription Drugs
ALABAMA	4		*	
ALASKA	None			
ARIZONA	5	*	*	
ARKANSAS	4.625		*	
CALIFORNIA	6	*	*	
COLORADO	3	*	*	
CONNECTICUT	6	*	*	
DELAWARE	None			
FLORIDA	6	*	*	*
GEORGIA	4	*		*
HAWAII	4		*	
IDAHO	5		*	
ILLINOIS	6.25	1%	1%	1%
INDIANA	5	*	*	
IOWA	5	*	*	
KANSAS	4.9		*	
KENTUCKY	6	*	*	
LOUISIANA	4		*	
MAINE	5.5	*	*	
MARYLAND	5	*	*	*
MASSACHUSETTS	5	*	*	
MICHIGAN	6	*	*	
MINNESOTA	6.5	*	*	*
MISSISSIPPI	7		*	
MISSOURI	4.22	5	1.225%	*
MONTANA	None			
NEBRASKA	4.5	*	*	
NEVADA	6.5	*	*	
NEW HAMPSHIRE	None			
NEW JERSEY	6	*	*	*
NEW MEXICO	5		*	
NEW YORK	4	*	*	*
NORTH CAROLINA	4		*	
NORTH DAKOTA	5	*	*	
OHIO	5	*	*	
OKLAHOMA	4.5		*	
OREGON	None			
PENNSYLVANIA	6	*	*	*
RHODE ISLAND	7	*	*	*
SOUTH CAROLINA	5		*	
SOUTH DAKOTA	4		*	
TENNESSEE	6		*	
TEXAS	6.25	*	*	
UTAH	4.75		*	
VERMONT	5	*	*	
VIRGINIA	3.5		*	*
WASHINGTON	6.5	*	*	
WEST VIRGINIA	6		*	
WISCONSIN	5	*	*	
WYOMING	4		*	
DIST. OF COLUMBIA	5.75	*	*	*

Source: Compiled by FTA from various sources.



## Administration

### Licensing, Reporting and Payment

The Wyoming Department of Revenue, Excise Division, is the administrator of the Wyoming sales and use tax statutes. All taxes to be paid, except for those collected on the purchase of a motor vehicle, house trailer, trailer coaches, trailers and semi-trailers which are paid to the county treasurers, are paid to the Wyoming Department of Revenue, Excise Division.

All vendors, operating in the state and required to collect sales taxes in Wyoming, must be licensed to do so by the Department of Revenue prior to commencing business. Chapter 2, Section 5 of the department's rules and regulation outlines the requirements for licensure. Applicants must complete an application, provide any necessary supporting documentation and pay a license fee of \$60.00 before obtaining a license. Governmental entities that sell, rent or lease tangible personal property or perform taxable services must also collect the sales tax and be licensed. The department can enter into voluntary license agreements with out-of-state vendors who collect Wyoming sales tax on sales to Wyoming residents. A sales and use tax license is not required of Indian tribes who do business on the Wind River Indian Reservation. Licenses are not transferable if the business is sold.

Contractors, who submit use tax payments on materials, fixtures and supplies directly to the department, are not considered vendors and do not have to be licensed. A contractor must be registered with the department and must disclose information about all projects prior to commencing work. Project disclosures must include the identification of all sub-contractors. Non-resident prime contractors must post a surety bond with the department equal to 4 percent of the contract price. Non-resident sub-contractors can also post a bond equal to 4 percent of their contract price with the prime contractor. Sub-contractors can post the bond to prevent the prime contractor from withholding use tax due to the department from each payment he makes to the sub-contractor. (Wyoming § 39-15/16-301/311)

The department permits taxpayers, who choose to pay the department directly for their sales tax liability. They are issued a direct payment permit. It is shown to the vendor at the time of the sale to prevent paying the sales tax.

Every vendor licensed with the Department of Revenue is required to submit a sales tax return on a form prescribed by the department on or before the last day of each month. The report states the preceding month's gross sales and is accompanied by the tax payment. The department can authorize, if the total tax due is less than \$150.00, a quarterly or annual return. Returns are due on or before the last day of the month following the end of the quarter or the year for which the tax is collected. Vendors going out of business must file a report within thirty days of discontinuing or selling their business.

Contractors must remit sales/use tax not paid to a vendor to the Department of Revenue by the last day of the month following the month of purchase. Prime contractors are ultimately responsible for the sales tax that is to be paid on purchases or services of their non-resident sub-contractors. They are required to withhold the 4 percent tax due from each payment made to the

sub-contractor until the sub-contractor furnishes the prime contractor with a certificate issued by the department showing all sales/use taxes accruing have been paid. A bond filed with the department directly by the non-resident sub-contractor will also release the prime contractor of this obligation. Forms for reporting are provided by the department.

Direct pay taxpayers are required to report by the last day of the month to the department their purchases and services subject to the Wyoming sales and use tax for the previous month.

Taxpayers liable for use tax are required to make payment to the department on or before the last day of the month following the month of purchase. There is a specific form required to file a use tax return.

County treasurers are required to remit the sales taxes collected on motor vehicles, house trailers, trailer coaches, trailers and semi-trailers to the Department of Revenue once a month. The taxes are due by the 20<sup>th</sup> of the month following the month of collection.

If a required report is not received by the date due, the department will give written notice by mail to the tax remitter to file a report on or before the last day of the month following the notice of delinquency. If a report is still not received, the department can prepare a report based upon the best information available. The tax due is based upon that report and will be assessed applicable interest and penalties.

### Enforcement

#### *Interest:*

Interest is assessed on past due tax payments to the department at a rate of 4 percentage points over the prime interest rate as determined by the Wyoming State Treasurer. Interest is assessed beginning on the first day after which the tax payment was due.

County treasurer's are required to collect interest on taxes due on motor vehicles, house trailers, trailer coaches, trailers and semi-trailer if the tax is not paid within forty-five days of the purchase of the vehicle. Interest is paid both to the Department of Revenue and the county in which the tax is paid. An interest rate of 3 percent per month accrues on the past due balance of tax. Once collected, the tax plus interest is submitted to the Department. The county is entitled to a 10 percent civil fee on the sales tax owed.

#### *Penalties:*

If any payment or reporting deficiency is due to negligent or intentional disregard of rules or regulations but without intent to defraud, a 10 percent penalty on the tax due can be assessed by the department. If the deficiency is due to fraud, the penalty on the tax due is 25 percent.

It is considered a misdemeanor if a vendor intentionally collects and keeps more than the tax that is due or submits a false or fraudulent return to the Department.

Vendor licenses can be revoked by the department for violation of any provision of the sales/use tax statutes. Department must first provide notice and an opportunity for a hearing. The department can after giving notice and an opportunity for a hearing, suspend the license of a vendor until he comes into compliance with the provisions of the statutes.

Every vendor is required to keep for three years at their principal place of business, records and books necessary to determine the amount of tax for which he is liable. The vendors must also preserve for three years invoices and books showing all merchandise purchased for resale. If a vendor fails to keep these records, he is required to bear the burden of proof in any legal action.

*Liens:*

Any tax due under this article is considered a debt to the state and becomes a lien against the real and personal property of the parties to the transaction, unless the purchaser can prove he paid the tax to the vendor. Notice of the lien is filed with the county clerk in the county in which the parties reside.

*Tax Sales:*

After the appropriate judicial proceedings, the department with Board of Equalization approval can seize and sell at public auction the property of any person owing taxes, interest and penalties.

**Taxpayer Remedies**

Taxpayers and tax remitters can make appeals of department administrative decisions to the State Board of Equalization. The decision of the board can be appealed to the state judicial system once all taxes, penalty and interest have been paid (Wyoming § 39-15/16-109 (a)). The court can for good cause stay enforcement of this provision, but it will not prevent interest from accruing.

Any tax, penalty or interest that has been paid in error is entitled to be refunded to the payer or credited again future tax returns. The request for the refund or credit must be made within three years from the date of overpayment.

The department must bring a court action to recover delinquent taxes, penalties and interest within three years following the delinquency. If the delinquency is discovered after an audit, the tax remitter has 30 days to pay the tax before the three-year period begins. Interest and penalty on an assessment generated by an audit begins to accrue from the filing period in which the taxes were originally due.

## Tax Collections and Distributions

### Tax Collections

Currently there are 5 states that do not have a statewide sales tax. These are Alaska, Delaware, Montana, New Hampshire and Oregon. Table 5F, page 17 compares the distribution of tax sources for all fifty states. General sales taxes include the gross receipts taxes assessed by states such as New Mexico and Hawaii. Selective sales taxes are excise taxes on specific products such as cigarettes, gasoline, special fuels and alcoholic beverages. Other taxes include severance and property taxes, as well franchise taxes. Sales tax collections in 1996 amounted to 33.7 percent of the total state tax revenues. This is very close to the United States average of 33.3 percent. Wyoming does not have a state individual and corporate income tax. It is one of six states who does not have a individual income tax and one of four states which does not have a corporate income tax. Wyoming collects most of its taxes from other tax sources. These sources are primarily mineral severance taxes and property taxes.<sup>10</sup>

A comparison of sales and use tax collections is best considered from 1993/94 fiscal year since July 1, 1993 is the date the statewide sales tax was increased from 3 percent to 4 percent. The fiscal year 1992-93 is included to show what difference was made with the one-percent increase. The table below includes only the state portion of the sales/use tax. Estimated sales/use tax collections for FY 1999 are \$400 Million.

Fiscal Year	Sales and Use Tax Collections				Total	% of Total Increase
	Sales Tax	% of Increase	Use Tax	% of Increase		
1993-3%	155,709,127.78		22,980,880.24		178,690,008.01	
1994-4%	233,268,104.85	49.81%	34,459,185.83	49.95%	267,727,291.18	49.83%
1995-4%	251,738,878.46	7.92%	37,595,583.22	9.10%	289,334,461.76	8.07%
1996-4%	252,517,165.22	0.31%	38,933,791.00	3.56%	291,450,956.23	0.73%
1997-4%	261,820,773.09	3.68%	36,103,697.17	-7.27%	297,924,470.29	2.22%
1998-4%	294,135,686.05	12.34%	33,443,948.47	-7.37%	327,579,634.52	9.95%

There was a 49.83 percent increase in sales and use tax collections between fiscal year 1993 and fiscal year 1994 when the sales tax rate was increased. Since that time, the increases have been moderate. Collection of use tax has out performed collections of sales tax except in FY1997 and 1998 when there was a decrease. The collection of use tax is difficult. Many state residents do not know it is a law and do not understand its purpose. It is also easy to avoid. It is difficult for the Department of Revenue to enforce.

The increase in catalog and electronic sales has caused concern that overall sales and use tax collections will decrease due the use of these marketing mediums. Catalog and Internet sales

<sup>10</sup> Data from the U.S. Department of Commerce, Census Bureau and published by the Federation of Tax Administrators, 444 north Capitol Street, N.W., Washington, D.C. 20001. Information was obtained from the website of the Federal Tax Administrators, [www.taxadmin.org](http://www.taxadmin.org)



TABLE 5F

**1998 State Tax Collection by Source  
(Percentage of Total)**

	Property	Sales	Selective Sales	Individual Income	Corporate Income	Other
ALABAMA	2.4	27.4	24.8	31.3	4.3	9.8
ALASKA	4.1	—	9.8	—	23.2	62.8
ARIZONA	3.6	43.9	13.8	26.8	7.6	4.3
ARKANSAS	0.2	37.3	14.5	34.3	6.2	7.5
CALIFORNIA	5.7	31.5	7.7	41.0	8.3	5.8
COLORADO	0.1	26.0	13.4	48.9	4.6	7.1
CONNECTICUT	0.03	2.3	18.0	36.3	5.7	7.8
DELAWARE	—	—	12.9	38.4	10.4	38.3
FLORIDA	4.4	57.4	17.8	—	5.6	14.8
GEORGIA	0.3	34.5	8.6	45.9	6.4	4.3
HAWAII	—	44.9	15.3	34.1	1.9	3.8
IDAHO	—	31.7	14.6	37.9	5.7	10.1
ILLINOIS	1.0	28.3	17.8	35.3	9.9	7.6
INDIANA	0.0	32.5	12.7	41.7	9.5	3.5
IOWA	—	31.8	14.3	38.3	4.1	11.5
KANSAS	1.0	34.8	12.0	37.5	6.6	8.1
KENTUCKY	5.1	27.8	17.9	34.0	4.7	10.4
LOUISIANA	0.4	32.6	20.0	23.9	5.9	17.3
MAINE	1.8	35.1	13.1	38.2	4.5	7.3
MARYLAND	2.6	23.5	18.3	45.0	4.1	6.4
MASSACHUSETTS	0.0	20.4	9.7	55.4	9.4	5.0
MICHIGAN	7.2	34.9	8.9	31.3	10.9	6.8
MINNESOTA	0.1	28.2	14.7	41.3	6.5	9.2
MISSISSIPPI	0.5	46.8	19.5	19.5	5.6	8.0
MISSOURI	0.2	32.0	14.3	41.0	4.4	8.2
MONTANA	15.7	—	20.3	35.3	6.8	21.8
NEBRASKA	0.2	34.9	15.1	37.0	5.4	7.4
NEVADA	2.2	54.9	30.0	—	—	12.8
NEW HAMPSHIRE	0.1	—	49.4	6.1	23.4	21.0
NEW JERSEY	0.0	30.5	18.5	35.8	7.5	7.6
NEW MEXICO	1.0	40.7	13.9	22.4	5.0	17.0
NEW YORK	—	21.1	13.3	50.6	8.7	6.4
NORTH CAROLINA	0.0	23.6	17.8	44.2	7.2	7.3
NORTH DAKOTA	0.2	28.7	27.9	16.5	7.7	19.1
OHIO	0.1	31.4	15.8	39.5	4.3	9.0
OKLAHOMA	—	25.1	12.9	35.6	4.2	22.3
OREGON	0.0	—	13.4	68.8	5.6	12.2
PENNSYLVANIA	0.7	30.6	16.4	29.2	7.6	15.5
RHODE ISLAND	0.1	29.5	18.9	41.2	3.9	6.4
SOUTH CAROLINA	0.2	38.1	12.9	36.7	3.8	8.4
SOUTH DAKOTA	—	53.1	26.2	—	4.6	16.1
TENNESSEE	—	57.6	18.5	2.3	8.7	13.0
TEXAS	—	50.6	30.1	—	—	19.3
UTAH	—	36.9	12.0	39.8	5.6	5.7
VERMONT	1.0	20.3	24.0	38.2	4.8	11.7
VIRGINIA	0.2	21.1	16.0	51.3	4.2	7.2
WASHINGTON	17.3	58.5	15.0	—	—	9.1
WEST VIRGINIA	0.1	28.4	23.3	28.8	7.4	12.1
WISCONSIN	0.7	27.3	13.8	45.3	6.1	6.8
WYOMING	11.6	39.2	7.9	—	—	41.4
US Totals	2.2	32.9	15.0	33.9	6.5	9.4

U.S. Bureau of the Census

organizations must collect sales tax if they have nexus<sup>11</sup> within the state. They then submit the collections to the state. If there is no established nexus, the marketing organization does not have to collect the tax, and the purchaser must pay use tax. Not many purchasers comply with the law and knowing who they are so that the department can collect from them is difficult. This problem is receiving national attention and committee has been formed at the Federal level to find a nationwide solution.

The Wyoming Department of Administration and Information, Economic Analysis Division, annually publishes the Wyoming Sales, Use and Lodging Tax Revenue Report. This report contains collection data by industrial sector. The data is gathered from the payers of the actual sales taxes to the Department of Revenues. The payers include vendors, county treasurers (public administration), contractors, use tax payers, direct pay tax payers. There may be overlap in some categories. For example, the amount of sales tax paid by the agriculture sector would include the taxes submitted by vendors of agriculture goods such as ranch and farm equipment dealers and use taxes paid by agricultural interests, but it would not include the grocery sales to agriculture interests. These sales would be included in the wholesale/retail category. Table 5G, page 19 displays collections by Industrial Sector.

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<sup>11</sup> Nexus is a legal term meaning having sufficient "contacts" within a state to be subject to that state's taxing jurisdiction. It is well established that if a business located in State A has more than *de minimis* amount of its property located in State B, or its employees regularly enter State B to conduct business, State B has taxing jurisdiction over the company... The ambiguity surrounding the existence of nexus generally arises when a business is making sales or earning a profit without any direct physical presence, e.g., by licensing a trademark in exchange for royalties or through the physical presence of third parties who may or may not be considered its agent.

Many state officials believe that a "physical presence" standard for establishing nexus is too limited in a world in which an increasing number of services can be provided via telecommunications and would prefer a much broader standard under which nexus would exist whenever a business purposefully take advantage of a profit-making opportunity in a state. Snell, Ronald, Financing State Government in the 1990's, National Conference of State Legislatures, National Governors' Association, December, 1993, pp 109-110.

TABLE 5G

Sales/Use Tax Collections by Industrial Sector -- FY 1993-1997 (Does not include Lodging Tax)

	1993	1994	1995	1996	1997	1998	1997	1998	1998
<b>Agriculture</b>	975,892	1,138,233	0.37%	1,220,591	0.34%	1,317,191	0.36%	1,300,983	0.34%
<b>Mining</b>	22,320,141	30,636,028	8.49%	32,713,558	9.01%	34,040,507	9.22%	35,515,973	9.41%
<b>Construction</b>	8,837,467	12,004,811	3.36%	13,484,279	3.71%	13,652,846	3.70%	17,563,331	4.65%
<b>Manufacturing</b>	13,604,820	18,578,741	5.18%	19,916,084	5.49%	19,480,907	5.27%	18,495,843	4.90%
<b>Transportation</b>	24,867,101	32,024,884	9.46%	32,241,011	8.88%	32,889,763	8.90%	33,335,274	8.83%
<b>Wholesale/Retail Trade</b>	127,409,505	161,645,437	46.49%	173,755,189	47.86%	178,871,071	48.43%	182,457,036	48.34%
<b>Finance</b>	880,167	1,228,324	0.33%	1,551,259	0.43%	1,717,792	0.47%	1,540,652	0.41%
<b>Service</b>	30,734,515	38,405,786	11.70%	41,433,339	11.41%	42,302,313	11.45%	43,972,843	11.65%
<b>Public Administration</b>	33,139,940	40,368,355	12.61%	46,725,415	12.87%	45,071,658	12.20%	43,280,989	11.47%
<b>Total</b>	262,769,548	336,028,597	100.00%	363,040,703	100.00%	369,344,048	100.00%	377,462,724	100.00%
								367,957,887	100.00%

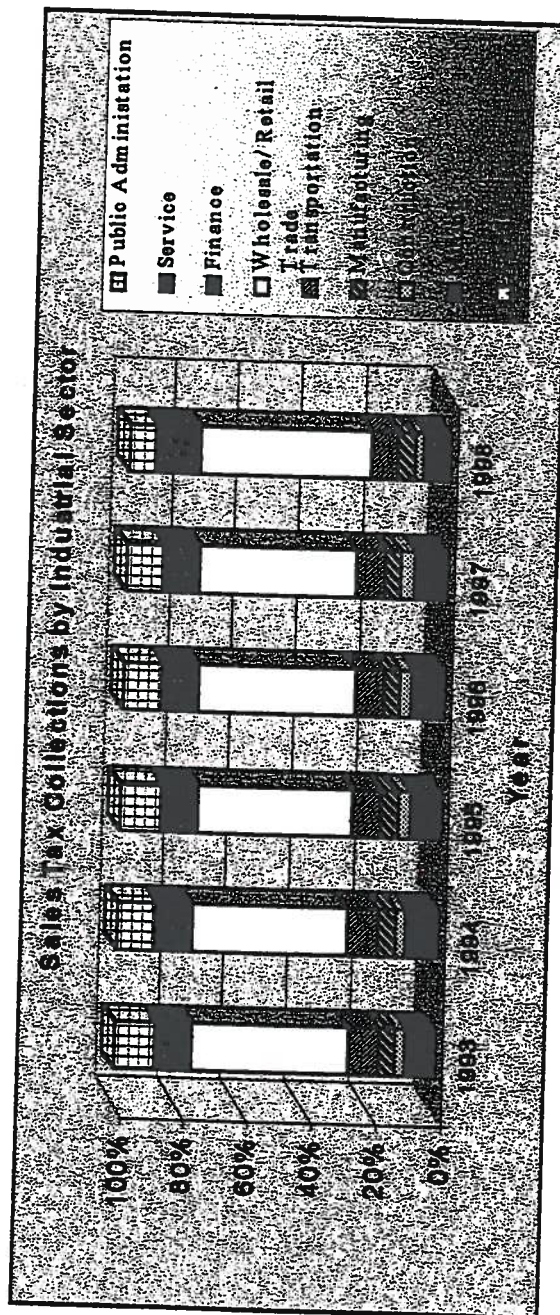


TABLE 5H

Wyoming Travel Economic Impact - 1998

Morey &amp; Associates/U. of Wyoming

**Estimated Sales Tax Collections from Travelers (in \$000's)**  
**by Expenditure Category by Region**

Expenditure Category	Region <sup>a</sup>				Estimated State Total From Travelers	Actual State Total From All Sources
	1	2	3	4		
Accommodations	\$6,810	\$3,549	\$1,320	\$2,366	\$14,045	\$14,463
Restaurants	6,922	3,678	1,369	2,261	14,230	25,765 <sup>b</sup>
Groceries	1,431	1,173	389	545	3,438	35,533 <sup>c</sup>
Shopping	9,638	5,710	1,945	1,744	19,037	58,074 <sup>d</sup>
Local Transportation	59	13	1	31	104	43 <sup>e</sup>
Car Rental	608	143	4	203	958	3,446 <sup>f</sup>
Total	\$25,468	\$14,266	\$4,928	\$7,150	\$51,812	\$147,324

<sup>a</sup> Region 1 = Jackson Hole/Jim Bridger

Region 2 = Medicine Bow/Flaming Gorge

Region 3 = Oregon Trail/Rendezvous

Region 4 = Devil's Tower/Bufalo Bill

<sup>b</sup> sales taxes collected from Eating and Drinking Establishments (SIC 58)<sup>c</sup> sales taxes collected from Food Stores (SIC 54)<sup>d</sup> sales taxes collected from General Merchandise Stores (SIC 53), Apparel and Accessory Stores (SIC 56), Furniture and Home Furnishing Stores (SIC 57), and Miscellaneous Retail Stores (SIC 59).<sup>e</sup> sales taxes collected from passenger transportation (SIC 472).<sup>f</sup> sales taxes collected from automobile rentals without drivers (SIC 7510)



TABLE 5I

	States Portion Of 4%	Local Portion Of 4%	FY 1998 Total Sales Tax Distributions			Total
			Optional 1% General Purpose	Optional 1% Special Purpose	Lodging Tax Distributions	
FY 1998	236,520,706.49	91,059,197.44	67,140,145.25	14,717,354.36	2,630,785.70	412,068,189.24
FY 1998	Collections attributed to Tourism			51,812,000.00		
	% Of Total Sales Taxes attributed to Tourism.			12.57%		

The tourism industry is an important contributor to sales tax collections in Wyoming. Morey and Associates and University of Wyoming, College of Business, Department of Economics and Finance prepared a report for the Wyoming Division of Tourism, Department of Commerce in 1998. This study estimated the collections received from sales taxes in FY 1998 from tourist related categories. Table 5H shows the results of this study. An estimated \$51,812,000 was collected in sales taxes from tourists between July 1, 1994 and June 30, 1995. This tax collection includes the county option taxes as well as lodging taxes. The amount represents 33 percent of the total taxes collected in these categories.

Table 5I compares the taxes estimated to be collected from tourism to the total sales and use taxes collected statewide from all sources. Tourism in FY 1998 is estimated to represent 12.57 percent of all sales tax collections in the state. It must be understood that this figure does also include sales to Wyoming tourists travelling within the state.

#### Tax Distributions

The sales and use tax statutes describe how the statewide and optional local sales taxes are to be distributed. (Wyoming § 39-15/16-111/211/311). There is an administrative fee that is deducted from the collection of each type of sales and use tax and deposited to the state general fund.

A one-percent fee is deducted from the statewide 4 percent tax, and the one-percent general purpose and special purpose local option taxes. Two percent is deducted from the lodging tax collections for administration prior to distribution back to the cities and counties. The state treasurer deposits all license fees, penalties and interest collected by the Department of Revenue into the state's general fund.

The statewide 4 percent sales tax is distributed between the state's general fund and the cities and counties after the deduction of the administrative fee. Seventy-two percent is deposited to the general fund and 28 percent is returned counties to be shared between the county and municipalities within the county. The amount distributed to each county is determined by the amount of the sales tax collected in each county bears to the total of sales taxes collected in the state. Table 5J depicts the 4 percent sales collections by county in FY 1998.

Table 5J

**SALES / USE TAX COLLECTIONS BY COUNTY**  
**4% Statewide**

County	FY 1998	% of Total
Albany	13,943,128.70	4.25%
Big Horn	5,354,646.33	1.63%
Campbell	34,472,711.11	10.52%
Carbon	10,809,870.77	3.30%
Converse	6,971,833.30	2.13%
Crook	2,830,993.41	0.86%
Fremont	18,918,878.12	5.77%
Goshen	4,830,907.17	1.47%
Hot Springs	2,606,601.12	0.80%
Johnson	3,476,736.73	1.06%
Laramie	41,079,633.78	12.53%
Lincoln	8,837,108.60	2.70%
Natrona	42,824,515.84	13.06%
Niobrara	1,010,311.71	0.31%
Park	17,121,120.40	5.22%
Platte	5,339,476.96	1.63%
Sheridan	12,170,013.16	3.71%
Sublette	7,768,397.27	2.37%
Sweetwater	40,028,193.28	12.21%
Teton	25,386,094.08	7.74%
Uinta	13,295,169.84	4.06%
Washakie	5,802,927.14	1.77%
Weston	2,925,109.48	0.89%
<b>Total</b>	<b>327,804,378.30</b>	

Natrona County has the second largest county population and is centrally located. It hosts many statewide events. These are some reasons why it ranks first in sales tax collections. Laramie ranks second. It is the state's largest county and the seat of state government. Sweetwater and Campbell rank third and fourth, respectively. Their high rankings are primarily due to the sales taxes collected from mineral industry related sales. Teton County's sales tax collections are essentially due to the impact of tourism in the county.

Within the county, the sales tax is distributed to the cities and towns according to the portion that the population of each city and town bears to the total population of the county. That portion of the county's population residing outside municipal limits determines the county's share of sales tax money. The percentages are determined after each national census and remain the same until a new census is taken.

There is also a provision in the Wyoming § 39-15-111(c-d) that allows for sales tax funds that are distributed to the state general fund to be used to mitigate the impact effects of construction of large industrial projects within individual counties. Certain requirements must be meant by the project in order for the county to qualify for impact funds.

Local option sales taxes, after the administrative fee is deducted, are returned to the counties in which they are collected. The one-percent general purpose option sales tax is distributed within the county in the same manner as the 4 percent statewide sales tax. The one-percent special purpose option sales tax, after the deduction of the administrative costs, is returned to the county treasurer of the county in which it was collected. The treasurer distributes it to the sponsoring entities to pay for the special projects for which it was voted.

The lodging tax is also distributed to the county treasurer's after the deduction of the administrative fee. The entity sponsoring the tax does have the option to keep 10 percent of the tax for general revenue. Many sponsoring entities do not exercise this option. The county treasurer distributes whatever is allowed to the sponsoring entity's tourism joint powers board to be used for travel and tourism promotions. The members of the board are appointed by the sponsoring entities' governing bodies and must include a representative from each governmental entity that collects the tax and the district representative to the Wyoming Travel commission. The majority of the board's membership must be comprised of travel and tourism industry representatives.

Table 5K, page 24 shows the distributions of the statewide sales tax and the local option taxes to the counties for FY1998.

TABLE 5K

**SALES / USE TAX DISTRIBUTIONS BY COUNTY**  
**Fiscal Year 1998**

	4% Statewide Sales Tax	1% General Purpose Tax	1% Special Purpose Tax	Lodging Tax	Total
Albany	3,873,225.83	3,378,353.67	3,422,852.27	153,578.36	10,828,010.13
Big Horn	1,491,617.21	1,523,634.89	0.00	18,398.95 C	3,033,651.05
Campbell	9,592,175.56	8,500,900.34	0.00	128,349.47 F	18,221,425.37
Carbon	2,981,821.96	2,659,859.44	722,854.36	158,654.74	6,523,190.50
Converse	1,928,350.43	1,702,839.87	0.00	45,439.39	3,676,629.69
Crook	798,034.17	688,561.15	0.00	28,181.89	1,514,777.21
Fremont	5,234,245.72	0.00	10,154.37	135,291.75	5,379,691.84
Goshen	1,364,284.14	0.00	1,178,356.39	30,975.90	2,573,616.43
Hot Springs	719,210.22	731,868.55	0.00	47,838.55	1,498,917.32
Johnson	956,946.06	852,494.88	0.00	61,755.51	1,871,196.45
Laramie	11,450,013.13	9,966,363.02	23,902.39	314,532.77	21,754,811.31
Lincoln	2,480,687.48	2,188,920.46	1,711.76	10,672.35 D	4,681,992.05
Natrona	11,803,814.73	10,549,368.43	0.00	244,579.65	22,597,762.81
Niobrara	280,977.67	245,702.74	256,247.19	16,205.03 E	799,132.63
Park	4,768,069.52	0.00	0.00	738,013.90	5,506,083.42
Platte	1,515,402.90	1,298,391.02	0.00	5,056.58 B	2,818,850.50
Sheridan	3,390,515.20	2,956,220.51	2,973,367.77	125,149.85 A	9,445,253.33
Sublette	2,143,854.13	0.00	0.00	0.00	2,143,854.13
Sweetwater	11,102,080.47	9,790,434.39	0.00	232,425.32	21,124,940.18
Teton	7,028,484.63	6,121,489.91	6,127,907.86	0.00	19,277,882.40
Uinta	3,687,194.05	3,274,854.59	0.00	88,497.85 G	7,050,546.49
Washakie	1,643,111.34	0.00	0.00	25,088.56	1,668,199.90
Weston	824,810.89	709,887.39	0.00	22,099.33	1,556,797.61

- (a) Lodging tax distributed to the city of Sheridan, only.  
 (b) Lodging tax distributed to the town of Guernsey, only.  
 (c) Lodging tax distributed to the towns of Greybull and Lovell, only.  
 (d) Lodging tax distributed to the towns of Afton and Cokeville, only.  
 (e) Lodging tax is distributed to the town of Lusk, only.  
 (f) Lodging tax is distributed to the City of Gillette, only.  
 (g) Lodging tax is distributed to the City of Evanston, only.



## **GASOLINE AND SPECIAL FUEL TAX COMPOSITION**

### **GASOLINE EXCISE TAX**

#### **Article Citations and Tax Basis**

Wyoming § 39-17-101 through § 39-17-111 contains the requirements for the basis, administration, rates, enforcement and distribution for Wyoming's gasoline tax.

The definition of gasoline means the volatile substance produced from petroleum, natural gas, oil, shale or coal, sold under the name of gasoline and such other volatile and inflammable liquids, produced manufactured, blended or compounded which can be used for operating or propelling motor vehicles. It does include ethanol based motor fuel which is blended 90 percent gasoline and 10 percent ethanol and gasohol which is blended 90 percent gasoline and 10 percent alcohol. It also includes jet fuel and other fuels produced to pilot aircraft. It does not include stove oil, furnace fuel, tractor fuel, diesel fuel, distillate, naphtha, kerosene, methane, ethane, propane, butane or liquefied gas.

The administrator of the Wyoming gasoline tax is the Wyoming Department of Transportation (WYDOT), Fuel Tax Division. The department is responsible for developing the forms for filing tax returns, and for the assessment and collection of the tax and fees imposed. The department must also write rules and regulations necessary for the enforcement of the provisions in this article. The State of Wyoming is the only entity that can collect a gasoline tax and no city, town or county can impose such a tax.

Taxes imposed in this article are presumed to be a direct tax upon the ultimate or retail consumer. If the taxes are remitted by a person other than the retail consumer to the department, they are considered pre-collected and an advance payment for the convenience of the consumer. The tax is added to the price of fuel and reimbursed to the remitter of the tax by the retail consumer when the gasoline is purchased.

#### **Rates**

Wyoming § 39-17-104(a) - On July 1, 1998, the Wyoming gasoline tax was increased from \$.08 per gallon to \$.11 per gallon. This tax is in effect until June 30, 2000 when it becomes \$.13.

Wyoming § 39-17-104(b) - Gasoline sold for use in aircraft is subject a \$.04 per gallon tax.

Wyoming § 39-17-104(c) - A one cent Alternative License Tax (ALT) is added for the leaking underground storage tank fund. This tax will cease being collected once the ALT fund reaches \$10,000,000 and will again be collected when the fund falls below \$4,000,000, Wyoming § 39-17-103(ii).

Wyoming § 39-17-104(d) - This article adds an additional \$.02 tax to each of the taxes in clauses (a) through (c). This tax is to be collected until June 30, 2000.

The total gasoline tax to be paid by retail gasoline purchasers not eligible for exceptions is \$.14 per gallon. Gasoline purchased for aircraft use is subject to a \$.07 per gallon.

A history of Wyoming gasoline tax is shown below in Table 8A:

**Wyoming's Gasoline and Gasohol Fuel Tax History**

**TABLE 8A**

Year	Gasoline Tax Cents	Gasohol Tax Cents	Explanation
1923	1	1	Gasoline first taxed in Wyoming
1925	2.5	2.5	1.5 cent increase in gasoline tax
1927	3	3	.5 increase in gasoline tax
1929	4	4	1 cent increase in gasoline tax
1951	5	5	1 cent increase in gasoline tax
1967	6	6	1 cent increase in gasoline tax
1969	7	7	1 cent increase in gasoline tax
1975	8	8	1 cent increase in gasoline tax
1979	8	4	4 cents decrease in gasohol tax
1989	9	5	1 cent increase on all fuel for underground storage cleanup
1995	9	9	Trade of a 4 cents increase to gasohol with a 4 cents production credit to ethanol producers in Wyoming
1998	14	14	5 cents increase, 2 cents of increase to school foundation until June 30, 2000

With the rate increase in 1998, Wyoming's gasoline tax rate is more in line with other states. See Table 8B, page 3. It still is one of the lowest in the nation. Of surrounding states, Wyoming has the lowest gasoline rates. Montana has the highest rate with \$0.27 and South Dakota the lowest of surrounding states at \$0.21. The average gasoline rate for Wyoming and surrounding states is \$0.227. Wyoming with a rate of \$.14 is \$0.087 below the average.

**State Gasoline/Gasohol Tax**  
**January 1, 1999**

**TABLE 8B**

State	Gasoline Tax Rate-per gallon	Gasohol Tax Rate-per-gallon	Other Provisions
Alabama	.18	.18	Inspection fee
Alaska	.08	.00	
Arizona	.18	.18	Carrier Surcharge 8¢
Arkansas	.187	.187	Environmental Surcharge; optional local tax
California	.18	.18	Sales Tax Applicable
Colorado	.22	.22	
Connecticut	.32	.31	
Delaware	.23	.23	Plus 0.5% GRT; portion of tax adjusted quarterly
Florida	.131	.131	Sales tax added to excise tax; optional local taxes
Georgia	.075	.075	Sales tax applicable (3%)
Hawaii	.16	.16	Sales tax applicable; optional local taxes
Idaho	.26	.235	Clean water tax; credit allowed for ethanol blend.
Illinois	.193	.19	Sales tax applicable; env. fee; local taxes; carrier surcharge 3¢
Indiana	.15	.15	Sales tax applicable; carrier surcharge 11¢
Iowa	.20	.19	
Kansas	.18	.18	
Kentucky	.164	.164	Environmental fee, rate adjusted quarterly; carrier surcharge 2%
Louisiana	.20	.20	
Maine	.19	.19	
Maryland	.235	.235	
Massachusetts	.21	.21	Rate adjusted quarterly
Michigan	.19	.19	Sales tax applicable
Minnesota	.20	.20	
Mississippi	.184	.184	Environmental fee
Missouri	.1705	.1505	Inspection fee
Montana	.27	.27	
Nebraska	.244	.248	Petroleum fee; portion of rate adjusted quarterly
Nevada	.24	.24	
New Hampshire	.187	.187	Oil discharge clean up fee
New Jersey	.105	.105	Plus a 2.75% GRT
New Mexico	.18	.18	Petroleum loading fee
New York	.08	.08	Sales tax applicable; carrier surcharge 22.21¢
North Carolina	.216	.216	Rate adjusted quarterly
North Dakota	.20	.20	
Ohio	.22	.22	Plus 3 cents commercial
Oklahoma	.17	.17	Environmental fee
Oregon	.24	.24	
Pennsylvania	.3077	.3077	Oil franchise tax; carrier surcharge 6¢
Rhode Island	.29	.29	Rate adjusted quarterly; ALT tax
South Carolina	.16	.16	
South Dakota	.21	.19	Local option taxes
Tennessee	.21	.21	Special petroleum tax; local option taxes
Texas	.20	.20	
Utah	.2475	.2475	
Vermont	.20	.20	Petroleum clean up fee
Virginia	.175	.175	Local option taxes
Washington	.230	.23	0.5% privilege tax
West Virginia	.2535	.2535	Sales tax added to excise
Wisconsin	.254	.254	
Wyoming	.14	.14	ALT tax; production credit for ethanol producers

### **Tax Exemptions**

Wyoming § 39-17-105(a)-(c) provides 3 specific exemptions to the gasoline tax:

- (a) Gasoline exported or sold at a Wyoming terminal rack<sup>1</sup> and directly exported outside the state, other than in the fuel supply tank of a motor vehicle, by a person licensed as an exporter in this state is exempt from the taxes imposed by Wyoming § 39-17-104(a), (b) and (c). An exporter does pay the \$0.02 tax under Wyoming § 39-17-104(d). Gasoline directly exported, other than in the fuel supply tank of a motor vehicle, by a Wyoming licensed supplier, is exempt from the tax imposed by Wyoming § 39-17-104(c). The tax paid by the licensed supplier is either \$0.13 for gasoline or \$0.06 for aircraft fuel.
- (b) The purchaser of gasoline or aircraft fuel for agricultural purposes is allowed a credit of 70 percent on the taxes paid under Wyoming § 39-17-104(a) and (b). The credit is allowed on bulk sales at the time of purchase from a Wyoming licensed distributor or importer. The purchaser does pay the full tax of \$0.03 assessed under Wyoming § 39-17-104(c) and (d).
- (c) Exchanges or sales of gasoline between suppliers and the direct export of gasoline, other than in the fuel supply tank of a motor vehicle, are exempt from all taxes under Wyoming § 39-17-104.

### **Administration**

#### **Licensing, Bonding, Reporting and Payment**

##### ***Licensing***

Every supplier, refiner, distributor, terminal operator, importer or exporter of gasoline shall annually obtain a license from WYDOT to do business within the State. The license fee is \$25.00. Every dealer shall obtain an annual license for each location where gasoline is sold. The fee is \$25.00.<sup>2</sup>

Any person, who supplies, exports or imports ethanol in this state is required to obtain a license. The license fee is \$25.00.

If WYDOT has a reciprocal agreement with other states for the licensing of persons subject to this article, the license fee does not have to be paid if the persons are licensed in the other jurisdiction.

##### ***Bonding***

A cash bond or bond issued by a corporate surety licensed in Wyoming is required of all licensees guaranteeing payment of any delinquent taxes, penalties and interest due under this article and return of the license. The bond is \$50,000.00 or the equivalent of the applicant's tax liability for 6 months,

<sup>1</sup> Rack means any person who produces, refines, manufactures, blends or compounds gasoline in this state for use, sale or distribution.

<sup>2</sup> Wyoming § 39-17-101 defines the terms: supplier, refiner, distributor, terminal operator, importer, exporter and dealer.

whichever is greater the bond required can be waived by WYDOT if the licensee has established a good filing record which is complete, accurate and timely for a period of 3 years. If the licensee is not required to file a bond and does not comply with the filing rules of WYDOT, WYDOT can require that a new cash or surety bond be filed equal to the last 6 months of tax liability.

If a cash bond is filed with WYDOT, the interest accrues to the licensee.

### *Reporting and Payment*

On or before the last business day of each month,

- (A) Each licensed supplier from whom gasoline was purchased, must report to DOT all gallons used, sold or distributed in Wyoming during the preceding calendar month and remit the taxes due.
- (B) When gasoline is purchased out of Wyoming for use in Wyoming, the Wyoming licensed supplier shall report all gasoline used, sold or distributed during the preceding calendar month and remit the tax due.
- (C) When gasoline is purchased from a licensed refiner, the refiner must report the gallons used, sold or distributed during the preceding calendar month and remit the taxes due. This method of collection is referred to as collecting taxes at the rack.
- (D) A Wyoming licensed importer must report all gallons of gasoline imported during the preceding month and remit the tax unless the tax has been paid to an out-of-state supplier.
- (E) All persons acquiring ethanol or other blending agents must report to the department the gallons of the blending agents acquired and pay the additional taxes due on the agents.

Remitters of tax payments may make them by electronic funds transfer.

Distributors are allowed a refund credit on the monthly return for shrinkage allowances not to exceed one percent plus 130 gallons per product per month. Distributors must also declare expansion not to exceed one percent plus 130 gallons per product per month and pay the tax due on the monthly return.

Additional reports that must also be filed with WYDOT on monthly basis include:

- 1) Persons bringing gasoline into the state for sale, use or distribution must submit a verified statement to WYDOT by the tenth day of each month showing the number of gallons of gasoline delivered into the state during the preceding month.
- 2) Each person exporting gasoline from the state must also file a report with WYDOT showing the number of gallons exported, the destination state and the name of the person to whom it was exported.



- 3) On or before the last business day of each month, dealers, not licensed as distributors, must report to WYDOT the number of billed gallons of gasoline acquired during the previous month, from whom the gasoline was purchased and the total gallons sold.
- 4) On or before the last business day of each month, ethanol producers, importers and exporters must report the amount of ethanol produced, imported or exported for the purpose of blending with gasoline. They must also report the person who purchased the ethanol during the previous month.
- 5) Exporters of gasoline, out of the state, must report their exempt sales from the previous month under exemption Wyoming §39-17-105(a) to WYDOT by the last day of the month.
- 6) Distributors, importers or exporters must submit a statement to WYDOT showing the amount of credits given during the previous month to bulk gas purchasers for agricultural purposes under exemption Wyoming § 39-17-105(c) by the last business day of the month. This filing is for the purpose of obtaining a refund for taxes already paid.

Wyoming § 39-17-107(a)(v) requires that parties transporting motor fuel by railroad tank car or transport truck to carry shipping documents prescribed by WYDOT and deliver the motor fuel to the destination designated on the document, unless amendment provisions are met.

Wyoming § 39-17-107(a)(xi) requires all carriers licensed under the International Fuel Tax Agreement (IFTA) to file a quarterly report. The report is due the last business day of the month following the end of the quarter. The report must indicate the miles traveled by the operator's vehicles in each jurisdiction, the amount of gasoline used in each jurisdiction and the amount of tax paid during the quarter. If there are additional taxes due, the tax is submitted with the filing.

A report filed unsigned, incomplete or on incorrect forms, is considered not filed until the licensee supplies the necessary information or forms. The licensee has 10 days to provide the information or correct forms.

### Enforcement

- (a) Audits – All tax returns and records are subject to audit by the Wyoming Department of Audit. Filers of reports made to DOT must keep records pertaining to the purchase and sale of gasoline for 3 years.
- (b) Interest – Interest of one percent is assessed on taxes due from the payment due date until payment is received by WYDOT.
- (c) Penalties:
  - (i) Persons who operate without a required license under section Wyoming §39-17-106 are guilty of a misdemeanor punishable with a fine of no more than \$750.00 and/or imprisoned for not more than 6 months. Each day operations take place without a license is considered a separate offense.
  - (ii) If any person who is to file a report under (A) – (E), page 6, fails to do so, WYDOT can complete a report for them, estimate the tax due and add 10 percent penalty on taxes due. WYDOT gives written notice to the payer of the amount due. If a corrected report is received from the payer after receiving the estimated report from WYDOT, the department is to add the 10 percent penalty plus one percent interest

per month to the taxes until paid. WYDOT can waive the penalty for reasonable cause.

- (iii) Any person who fails to file a required report in this article or to remit the taxes due is guilty of a misdemeanor punishable with the same provisions as described in (c)(i) above.
- (iv) Any supplier, refiner, terminal operator, importer, exporter or distributor selling gasoline subject to the license taxes, if delinquent in the payment of the taxes, can be made liable for double the tax due to be recovered in a suit instituted by the State of Wyoming. An injunction can also be sought by the state restricting them from selling gasoline until the taxes are paid. After necessary applications are made by the state, their property can be impounded as security for delinquent taxes and any judgment recovered in a suit.
- (v) WYDOT can revoke any license for violation of the provisions of this article.
- (vi) Any person who is a retailer of gasoline must display the price per gallon of his gasoline products including the applicable taxes. Failure to do so is a misdemeanor punishable with the same provisions as described in (c)(i) above. Any retailer selling blended gasoline products must post the blended percentages. Failure to do so is punishable as a misdemeanor as described in (c)(i).

#### **Taxpayer Remedies**

##### **(a) Refunds:**

- (i) The University of Wyoming, Community Colleges, and Wyoming school districts are entitled to a refund of gasoline taxes. They must file a report along with receipts of purchase with WYDOT monthly. The refund form is invalid if it is submitted within one-year of purchase.
- (ii) By the last business day of each month, each distributor must file a report with WYDOT to obtain the refund for the credits allowed on bulk sales to purchasers for agricultural use.
- (iii) Any person who exports gasoline from Wyoming who already has paid the tax is entitled to a refund. The refund request is to be submitted on forms prescribed by the department by the last business day of the month. The refund request is invalid if not submitted within one year of the date of purchase.

##### **(b) Credits**

- (i) A credit of \$0.40 per gallon can be granted by WYDOT to producers of ethanol as long as they complete a report that helps WYDOT determine the demand and marketability of ethanol in Wyoming.
  - (A) The producer being granted a credit as provided in (i), can transfer the credit to any person selling ethanol based motor fuel or gasoline sold for blending with ethanol who as a tax liability under this article.
  - (B) Any credit granted by WYDOT must be used within one year. If the tax is transferred to a person in (ii) above, he has until July 1, 2000 to use the credit. The credits used cannot exceed an existing tax liability and no more than \$2,000,000.00 in credits can be used per year.

- (C) A report by the Wyoming Department of Administration and Information and WYDOT must be submitted to Legislature's Joint Transportation and Revenue Committees and to the Tax Reform 2000 Committee providing information about the economic benefits of the ethanol credit voucher program and the cost to the State.
- (ii) A Wyoming licensed supplier, distributor, refiner or importer who is unable to recover the taxes due from a bulk sale to a licensee who is other than an end-user is not liable for the taxes and may credit the amount of unpaid taxes against a later remittance report.

## **DIESEL FUELS EXCISE TAX**

### **Article Citations and Tax Basis**

Wyoming § 39-17-201 through § 39-17-211 contains the requirements for the basis, administration, rates, enforcement and distribution for Wyoming's diesel fuels tax.

The definition of diesel fuels means those combustible gases and liquids commonly referred to as diesel fuel that is consumed or purchased for any and all purposes. It includes kerosene and any type of additive when the additive is mixed or blended into diesel fuel, excluding a pour point depressant. It does not include liquid petroleum gas if it is sold for use in motor vehicles on public roads.

The administrator of the diesel fuels tax is the Wyoming Department of Transportation (WYDOT), Fuel Tax Division. The department is responsible for developing the forms for filing tax returns, and for the assessment and collection of the tax and fees imposed. The department must write rules and regulations necessary for the enforcement of the provisions in the article. The State of Wyoming is the only entity that can collect a diesel fuels tax and no city, town or county can impose such a tax.

Taxes imposed in this article are presumed to be a direct tax upon the ultimate or retail consumer. If the taxes are remitted by a person other than the retail consumer to the department, they are considered pre-collected and an advance payment for the convenience of the consumer. The tax is added to the price of fuel and reimbursed to the remitter of the tax by the retail consumer when the diesel fuel is purchased.

### **Tax Rates**

Wyoming § 39-17-204(a) - On July 1, 1998, the Wyoming diesel fuels tax was increased from \$0.08 per gallon to \$0.11 per gallon per gallon. This tax is in effect until June 30, 2000 when it becomes \$0.13.

Wyoming § 39-17-204(b) - A one cent ALT tax is added tax for the leaking underground storage tanks fund. This tax will cease being collected once the ALT fund reaches \$10,000,000 and will again be collected when the fund falls below \$4,000,000, Wyoming § 39-17-103(ii).

Wyoming § 39-17-204(c-d) - This section adds an additional \$0.02 tax to each of the taxes in (a) and (b). This tax is to be collected on all dyed <sup>3</sup>or undyed diesel used, sold or distributed until June 30, 2000. This tax is not collected on diesel sold for use outside the state if a reliable method can be developed to determine the diesel's location of use.

### **Tax Exemptions**

Wyoming § 39-17-205(a)-(e) provides 4 specific exemptions to the special fuels tax:

<sup>3</sup> Dyed diesel fuel means diesel fuel that is dyed pursuant to regulations issued by the United State Internal Revenue Service or DOT



- (a) Diesel fuels exported or sold at a Wyoming terminal rack and directly exported outside the state, other than in the fuel supply tank of a motor vehicle, by a person licensed as an exporter in this state is exempt from the taxes imposed by Wyoming § 39-17-204(a)-(b). An exporter does pay the \$0.02 tax under Wyoming § 39-17-204(c).
- (b) Exchanges or sales of diesel fuels between suppliers and the direct export of special fuels, other than in the fuel supply tank of a motor vehicle, are exempt from all taxes under Wyoming § 39-17-204(a). The taxes under (b) and (c) are paid for a total of \$0.03.
- (c) Diesel fuels directly exported, other than in the fuel supply tank of a motor vehicle, by a Wyoming licensed supplier, is exempt from the tax imposed by Wyoming § 39-17-204(a-b). They do pay the \$.02 tax in Wyoming § 39-17-204(c).
- (d) Dyed diesel fuel is exempt from Wyoming § 39-17-204(a). Users of dyed fuel must still pay the one cent ALT tax in (b) and the \$0.02 tax in (c). The state sales tax is also applied on sales to dyed diesel fuel users.

Wyoming diesel fuel tax history is shown in Table 8C. Prior to 1986, tax on diesel fuel users was figured on a per ton-mile basis. When the total miles were determined, a mill levy of 1.1 was applied.

### Wyoming's Diesel Fuel Tax History

**TABLE 8C**

Year	Diesel Tax Cents	Explanation
1923-1985	Ton Mile Tax	Tax 1.1 mills per ton in 1985
1986	8	Changed from ton mile to tax per gallon
1989	9	1 cent increase on all fuel for underground storage cleanup
1998	14	5 cents increase, 2 cents of increase to school foundation until June 30, 2000

Like the gasoline tax, Wyoming still has one of the lowest diesel fuel rates in the United States. See Table 8D, page 11. Of surrounding Wyoming states, Wyoming has the lowest rate. Montana has the highest rate \$0.2775 and the state with the next lowest rate to Wyoming is Colorado at \$0.205. The average rate for Wyoming and surrounding states is \$0.2071.

**State Gasoline/Gasohol Tax**  
**January 1, 1999**

**TABLE 8D**

<u>State</u>	<u>Diesel Tax Rate-</u> <u>per gallon</u>	<u>Other Provisions</u>
Alabama	.19	Inspection fee
Alaska	.08	
Arizona	.18	Carrier surcharge 8 ¢
Arkansas	.187	Environmental surcharge
California	.18	Sales tax applicable; local option taxes
Colorado	.205	
Connecticut	.180	
Delaware	.220	Plus 0.5% GRT; portion of rate adjusted quarterly
Florida	.251	Sales tax added to excise; local option taxes
Georgia	.075	Sales tax applicable (3%)
Hawaii	.160	Sales tax applicable; local option taxes
Idaho	.260	Clean water tax
Illinois	.215	Sales tax applicable; environ fee; carrier surcharge 6.0 ¢; local option taxes
Indiana	.160	Sales tax applicable; carrier surcharge 11 ¢
Iowa	.225	
Kansas	.200	
Kentucky	.134	Environmental fee; rates adjusted quarterly; carrier surcharge 4.7%
Louisiana	.200	
Maine	.200	
Maryland	.243	
Massachusetts	.210	Rates adjusted quarterly
Michigan	.150	Sales tax applicable
Minnesota	.20	
Mississippi	.184	Environmental fee
Missouri	.1705	Inspection fee
Montana	.2775	
Nebraska	.244	Petroleum fee, portion of rate adjusted quarterly.
Nevada	.270	Local option taxes
New Hampshire	.187	Oil discharge cleanup
New Jersey	.135	Plus 2.75% GRT
New Mexico	.190	Petroleum loading fee
New York	.08	Sales tax applicable; carrier surcharge 23.21 ¢
North Carolina	.216	Price adjusted quarterly
North Dakota	.20	
Ohio	.22	Additional 3 cents for commercial use
Oklahoma	.14	Environmental fee
Oregon	.24	Local option taxes
Pennsylvania	.308	Oil franchise tax; carrier surcharge 6 ¢
Rhode Island	.29	Rate adjusted quarterly, ALT tax
South Carolina	.16	
South Dakota	.21	Local option taxes
Tennessee	.18	Local option taxes; special petroleum tax
Texas	.20	
Utah	.1925	
Vermont	.17	Petroleum cleanup fee; large trucks pay 25 ¢ a gallon tax
Virginia	.16	Large trucks pay 19.5 ¢ a gallon tax
Washington	.23	0.5% privilege tax
West Virginia	.2535	Sales tax added to excise tax
Wisconsin	.254	Portion of rate adjusted quarterly
Wyoming	.14	ALT tax

## Administration

### Licensing, Bonding, Reporting and Payment

#### *Licensing*

Every supplier, refiner, distributor, terminal operator, importer or exporter of special fuels shall annually obtain a license from WYDOT to do business within the State. The license fee is \$25.00. Every dealer shall obtain an annual license for each location where diesel fuels are sold. The fee is \$25.00.

Each applicant for an international fuel tax agreement license decal must file a form with WYDOT to obtain the license and the decal. The fee is \$10.00. WYDOT can charge an additional fee of up to \$10.00 for each decal to defray the costs of the IFTA agreement.

#### *Bonding*

A cash bond or bond issued by a corporate surety licensed in Wyoming is required of all licensees guaranteeing payment of delinquent taxes, penalties and interest due to WYDOT under this article and return of the license. The bond is \$50,000.00 or the equivalent of the applicant's tax liability for 6 months whichever is greater. The bond can be waived by WYDOT if the licensee has established a good filing record which is complete, accurate, and timely for a period of 3 years. If the licensee is not required to file a bond, fails to comply with the filing rules of WYDOT, WYDOT can require that a new cash or surety bond be filed equal to the last 6 months of tax liability.

If a cash bond is filed with WYDOT, the interest accrues to the licensee.

#### *Reporting and Payment*

On or before the last business day of each month,

- (A) Each licensed supplier, from whom diesel fuels are purchased, must report to WYDOT all gallons used, sold or distributed in Wyoming during the preceding calendar month and remit the taxes due.
- (B) When diesel fuels are purchased outside of Wyoming for use in Wyoming, the Wyoming licensed supplier shall report all diesel fuels used, sold or distributed during the preceding calendar month and remit the tax due.
- (C) When diesel fuels are purchased from a licensed refiner, the refiner must report the gallons used, sold or distributed during the preceding calendar month and remit the taxes due. This method of collection is referred to as collecting taxes at the rack.

(D) A Wyoming licensed importer must report to WYDOT all gallons of diesel fuels imported during the preceding month and remit the tax unless the tax has been paid to an out-of-state supplier.

(E) All persons acquiring blending agents must report to the department the gallons of the blending agents acquired and pay the additional taxes due on the agents.

Remitters of tax payments may make them by electronic funds transfer.

Distributors are allowed a refund credit on the monthly return for shrinkage allowances not to exceed one percent plus 130 gallons per product per month. Distributors must also declare expansion not to exceed one percent plus 130 gallons per product per month and pay the tax due on the monthly return.

Additional reports to be filed with DOT on monthly basis include:

- 1) Persons bringing diesel fuels into the State for sale, use or distribution must submit a verified statement to WYDOT by the tenth day of each month showing the number of gallons of special fuels delivered into the state during the preceding month.
- 2) Each person exporting diesel fuels from the state must also file a report with WYDOT showing the number of gallons exported, the destination state and the name of the person to whom it was exported.
- 3) On or before the last business day of each month, dealers, not licensed as distributors, must report to WYDOT the number of billed gallons of diesel fuels acquired during the previous month, from whom the diesel fuels were purchased and the total gallons sold.
- 4) Exporters of diesel fuels out of state must report their exempt sales from the previous month under exemption Wyoming § 39-17-205(b) to WYDOT by the last day of the month.
- 5) Distributors, importers or exporters must submit a statement to WYDOT showing the amount of credits given during the previous month to bulk diesel purchasers for agricultural purposes by the last business day of the month. This filing is for the purpose of obtaining a refund for taxes already paid.

Wyoming §39-17-207(a)(vii) requires that parties transporting motor fuel by railroad tank car or transport truck to carry shipping documents prescribed by WYDOT and deliver the motor fuel to the destination designated on the document, unless amendment provisions are met.

Wyoming §39-17-207(a)(xi) requires all carriers licensed under the International Fuel Tax Agreement (IFTA) to file a quarterly report. The report is due the last business day of the month following the end of the quarter. The report must indicate the miles traveled by the operator's vehicles in each jurisdiction, the amount of special fuels used in each jurisdiction, the amount of tax paid during the quarter. If there are additional taxes due, the tax is submitted with the filing.

A report filed unsigned or incomplete or on incorrect forms, is considered not filed until the licensee supplies the necessary information or forms. The licensee has ten (10) days to provide the information or correct forms.

### Enforcement

- (a) Audits – All tax returns and records are subject to audit by the Wyoming Department of Audit. Filers of reports made to DOT must keep records pertaining to the purchase and sale of special fuels for 3 years. Special agreements with other states party to IFTA allow for use of each others audits to determine if motor fuel tax due each jurisdiction are properly reported and paid.
- (b) Interest – Interest of one percent is assessed on taxes due from the payment due date until payment is received by DOT.
- (c) Penalties -
  - (i) Persons who operate without a required license under section Wyoming § 39-17-206 are guilty of a misdemeanor punishable with a fine of no more than \$750.00 and/or imprisoned for not more than 6 months. Each day operations take place without a license is considered a separate offense.
  - (ii) If any person fails to file the monthly report required under (A) – (E), on page 12-13, (1) on page 13 or an IFTA report, WYDOT can complete a report for them, estimate the tax due and add 10 percent penalty to the taxes due. WYDOT shall then give written notice to the payer of the amount due. If a corrected report is received from the payer after receiving the estimated report from WYDOT, the department is to add the 10 percent penalty plus one percent interest per month to the taxes until paid. WYDOT can waive the penalty for reasonable cause.
  - (iii) Any person who fails to file a required report in this article or to remit the taxes due is guilty of a misdemeanor punishable with the same provisions as described in (c)(i) above.
  - (iv) Any supplier, refiner, terminal operator, importer, exporter or distributor selling special fuels subject to the license taxes, if delinquent in the payment of the taxes, can be made liable for double the tax due to be recovered in a suit instituted by the state of Wyoming. An injunction can also be sought by the state restricting them from selling special fuels until the taxes are paid. After necessary applications are made by the State, their property can be impounded as security for delinquent taxes and any judgment recovered in a suit.
  - (v) WYDOT can revoke any license for violation of the provisions of this article.
  - (vi) Any person who is a retailer of diesel fuels must display the price per gallon of his diesel fuels products including the applicable taxes. Failure to do so is a misdemeanor punishable with the same provisions as described in (c)(i) above. Any retailer selling blended diesel fuel products must post the blended percentages. Failure do so is punishable as a misdemeanor as described in (c)(i).
  - (vii) Any person who makes a fraudulent statement in a report is guilty of a misdemeanor as described in (c)(i).
  - (viii) Any person who operates a motor vehicle on public roads with dyed diesel is guilty of a misdemeanor and can be fined not more than \$300.00 or up to \$3.00 per gallon of



fuel involved, whichever is greater. The penalty will increase for each subsequent violation by the number of times this section has been violated.

### **Taxpayer Remedies**

#### **(a) Refunds**

- (i) By the last business day of each month, each distributor must file a report with WYDOT to obtain the refund for the credits allowed on bulk sales of undyed diesel fuel to purchasers for agricultural use.
- (ii) Any person who exports diesel fuels from Wyoming who already had paid the tax is entitled to a refund. The refund request is to be submitted on forms prescribed by the department by the last business day of the month. The refund request is invalid if not submitted within one year of the date of purchase.
- (iii) Diesel fuels sold by a distributor, importer, supplier or dealer to the state of Wyoming or any of its political subdivisions is due a refund.
- (iv) Diesel fuels sold by a distributor, importer, supplier or dealer to a purchaser for non-highway use such as logging, manufacturing, and mining operations on which a tax has been paid is entitled to a refund. A return must be filed with WYDOT in the prescribed method within one year of purchase.
- (v) The University of Wyoming, Community College, and Wyoming school districts are entitled to a refund of diesel fuels taxes. They must file a report along with receipts of purchase with WYDOT monthly. The refund form is invalid if it is submitted within one year of purchase.

#### **(b) Credits**

A credit may be given for fuel purchased in Wyoming but not used in Wyoming and may be carried forward to succeeding reporting periods.

# TAX COLLECTIONS AND DISTRIBUTIONS – GASOLINE AND DIESEL FUELS

## Tax Collections

**TABLE 8E**  
**Gallons Taxed and Tax Collected**

	Gasoline	Gasohol	Gasoline Gasohol Total	Gasoline Gasohol Taxes	Diesel Gallons	Diesel Taxes
Calendar Yr	Gallons	Gallons				
1993	281,758,803	56,221,202	337,980,005	\$ 26,291,213.00	212,959,991	\$ 20,131,380.00
Jan. 94 – Sept. 94	186,961,000	42,268,672	229,229,672	\$ 22,088,766.14	141,168,095	\$ 19,563,988.13
Oct. 94 – Sept. 95	278,859,259	55,229,526	334,088,785	\$ 27,599,025.76	219,152,660	\$ 21,120,952.36
Oct. 95 – Sept. 96	296,895,968	47,862,049	344,758,017	\$ 29,476,591.00	233,095,128	\$ 24,307,942.00
Oct. 96 – Sept. 97	308,631,031	4,520,412	313,151,443	\$ 29,131,247.05	245,399,952	\$ 24,531,759.00
Oct. 97 – Sept. 98				\$ 32,696,175.27		\$ 28,181,358.00

Table 8E shows the amount of gallons on which taxes were collected and the taxes collected for calendar year 1993 and the four past Federal fiscal years, 1994 through 1997.<sup>4</sup> Only nine months of gallons and collections are shown for Federal FY 94. Three months of that fiscal year, October through December 1993, had already been accounted for in the calendar year for 1993. The amounts shown are after refunds have been made. The effect of increasing the gasohol tax from \$0.04 to \$0.08 on January 1, 1995 is evident. The gallonage assessed for gasoline and gasohol was more in calendar year 1993 than in Federal fiscal year 1994/1995, but the dollars collected in taxes were larger reflecting the \$0.04 increase. WYDOT no longer accounted for gasohol gallons after February 1997. Ethanol producers are now granted a credit at \$.40 a gallon which they can transfer to any person selling ethanol based motor fuel or gasoline sold for blending with ethanol who as a tax liability under this article. See credits on page 7.

In July 1997, WYDOT moved the collection point for taxes to the rack. This has resulted in increased and more timely tax collections. The gallons on which taxes were collected for State FY's 1996, 1997 and 1998 are shown in Table 8F, page 17.

<sup>4</sup> The US Department of Transportation, Federal Highway Administration, requires DOT to complete a Series 500 Federal report at the end of each Federal fiscal year. A Federal fiscal year runs from October 1 to September 30. The State fiscal year runs from July 1 to June 30. Up until 1994, DOT had reported on a calendar year basis. The State must report the revenue collections, its administrative expenses and to whom the taxes were distributed on this annual report.

**TABLE 8F**

<i>July 1 – June 30</i>	<b>Gasoline</b>	<b>Gasohol</b>	<b>Total Gasoline and Gasohol</b>	<b>Diesel</b>
FY 1996	285,367,058	35,125,665	320,492,723	221,184,031
FY 1997	324,239,536	7,671,479	331,910,015	256,534,351
FY 1998 <sup>5</sup>	324,971,712	0	324,971,712	260,350,239

There was a substantial increase in gallonage for both gasoline and for diesel between FY 1996 and FY 1997. Even though gallons are estimated to be down in FY 1998, there is still an increase from FY 1996.

### **Tax Distributions**

Article 15, Section 16 of the Wyoming Constitution states fees, excises or license taxes levied by the state should be used for the payment of highway obligations, costs for construction, reconstruction, maintenance and repair of public highways, county roads, bridges, streets, alleys and bridges in cities and towns and the expense of enforcing state traffic laws. This does not apply to registration and vehicle licensing fees or excise taxes imposed by counties or municipalities.

#### **Gasoline Taxes:**

Wyoming §39-17-111(a)-(h) provides for the distribution of gasoline taxes to comply with the state constitution. WYDOT transfers all taxes and fees received to the state treasurer who deposits the monies to the State Highway Fund. WYDOT then certifies to the treasurer the amounts to be credited to the appropriate accounts in following order:

- (i) Distribute the taxes collected on aircraft fuels sold at municipal or county airports to the cities, towns or counties where the airports are located to be used for maintenance of the airport.
- (ii) Deduct from the taxes collected an amount equal to the number of snowmobiles currently registered and user fees have been paid under Wyoming § 31-2-404(a)(i) and Wyoming § 31-2-409(a)(ii) times \$16.25 plus the number of snowmobiles registered under Wyoming § 31-2-404(a)(ii) and Wyoming § 31-2-409(a)(ii) times \$32.50. The taxes are to be deposited to the revenue fund administered by the Department of Commerce to improve snowmobile trails in Wyoming.
- (iii) Deduct from the taxes collected an amount equal to the number of motorboats computed under a formula in Wyoming § 41-13-102 and 5,000 nonresident motorboats times \$16.25. The funds are to be used by the Department of Commerce to improve watercraft facilities in state parks and as grants to local governments to improve watercraft facilities in public parks and recreational facilities.

The remainder of funds is distributed by the state treasurer to accounts in the state highway fund and to municipalities and counties.

<sup>5</sup> The gallons of fuel on which tax was collected for FY98 have yet to be finalized by DOT and the figures shown are approximate.

## Diesel Fuel Taxes:

Wyoming § 39-17-211(a)-(f) provides for the distribution of special fuels taxes to comply with the state constitution. WYDOT transfers all taxes and fees received to the state treasurer who deposits the monies to the state highway fund and to municipalities and counties.

## Distribution

Table 8G on page 21, displays the distribution of fuel taxes from Federal fiscal year 1993 until 1997.

Though the ALT tax was collected since 1989 it is not broken out until 1995. The ALT assessment is deposited to the ALT tax fund to be used to correct damages caused by underground storage tank leakage. The fund is administered by the Department of Environmental Quality (DEQ).

In 1994, the legislature made special provision for a 2 percent assessment for diesel tax administration. This provision does not exist for gasoline taxes by statute.

The separate account in the State Highway Fund for primary, secondary and forest roads was closed in July, 1994 and consolidated into State Highway Funds general account.

Table 8H on page 22 displays the distributions to cities and counties for the state FY's 1995 and 1996. Thirteen and one-half percent of the gasoline taxes available for distribution after the deductions for non-highway uses and 20 percent the diesel taxes available to be distributed are given to counties. The amount each county receives is determined by the following formula:

- (A) One third of each of the gasoline and diesel taxes to be distributed is taken times the ratio of the area of each county to the total area of the state.
- (B) One third of each of the gasoline and diesel taxes to be distributed is taken times the ratio of each county's rural population (rural population includes incorporated areas and towns less than fourteen hundred residents) to the total rural population of the state as determined by the most recent federal census.
- (C) One third of each of the gasoline and diesel taxes to be distributed is taken times the ratio of each county's last assessed valuation to the total last assessed valuation of the State.

Table 8I on page 23, shows the percentage counties would have received from the above formula in 1996. The table indicates that Campbell and Sweetwater Counties would receive the largest amounts tax distributions. Campbell County's average percentage is 11.127 percent and Sweetwater is 10.477 percent. Table H, page 22 shows that Campbell County did \$694,449.00 and Sweetwater, \$656,995.00, the largest distributions of all 23 counties. In contrast, Niobrara and Hot Springs counties both received the least distribution as Table H indicated they would. The variable that causes the most change is the assessed value since it fluctuates annually. Population could affect the distributions after every federal census.

Fourteen percent of the gasoline funds available for distribution after deductions for non-highway uses is credited to the State-County Road Account (SCCFM). This account includes county funding for the University's Technology Transfer Program<sup>6</sup> up to \$31,250.00. Counties use the money for road and bridge construction. The funds are allocated to counties based upon the following ratios:

Fifty percent upon the ratio which the rural population of each county including population of within the cities and towns with less than 1,400 bears to the total rural population of the state according to the last federal census.

Fifty percent based on the ratio which the areas of the county bears to the total area of the state.

Any interest earned on invested funds shall be credited to each county and may be used for the county's matching fund requirements and for project costs as provided by Wyoming § 242-2110(c)(ii).

The formula for the SCCFM money does not include a percentage based upon assessed value. This percentage is included in the formula used to distribute gasoline and diesel taxes to counties. Without this percentage, more tax money does go to counties with low assessed valuations.

Distribution of gasoline taxes to cities is figured differently than that of counties. Fifteen percent of the amount of gasoline taxes available for distribution after the deductions for non-highway uses is distributed to municipalities. Initially, a maximum of \$31,250.00 is deducted for the University of Wyoming's Technology Transfer program. The balance is distributed as followed:

- (A) Seventy-five percent of the gasoline taxes are distributed according to the taxes paid on gasoline sold to and distributed by dealers within each incorporated city and town. In other words, three-fourths of the gasoline funds to be distributed to municipalities are returned to the location where the taxes were originally collected.
- (B) Twenty-five percent of the gasoline taxes to be distributed is taken times the ratio of each town's/city's population to the total municipal population of the state as determined by the last federal census.

Cities and towns also receive a portion of the diesel fuels taxes collected. Five percent of the amount available for distribution is distributed to municipality based upon the ratio of each city's and town's population to the total municipal population.

Table 8H, page 22 shows the amounts of gasoline and diesel taxes distributed to cities/towns in 1995 and 1996. The influence of (A) in the gasoline distribution formula is evident. Towns such as, Afton, Thayne, and Cokeville on Wyoming's western border, benefit from sales to Idaho, which has a higher tax rate than Wyoming. The distribution per capita of gasoline taxes for all municipalities in Wyoming is \$11.26 in 1996. Afton's per capita distribution was \$41.42, Thayne's \$34.57 and Cokeville \$15.30. Other municipalities who lie on major interstates and have gasoline service centers within the municipal limits receive higher per capita tax distributions than the statewide average.

<sup>6</sup> This program, sponsored by the University of Wyoming for municipal, county and state employees, provides education on road construction and maintenance, safety, and administration.



Wamsutter receives \$23.39 and Rawlins \$13.62 per capita. Both are on I-80. Jackson receives \$27.33 per capita due to its tourist exposure. It must be noted even though a municipality has a border influence, lies on an interstate or has a tourism exposure, it may not benefit from higher gasoline tax distributions. The distribution centers must lie within the municipal limits.

Fifty-seven and one-half percent of the gasoline tax available for distribution after deductions for non-highway uses and 73 percent of the special fuels tax is distributed to the state highway fund.

TABLE 8G

## Fuel Tax Distributions

Gasoline		Diesel		Gasoline		Diesel		Gasoline		Diesel	
Calendar Year 1993		Jan. 1994 - Sep. 1994		Oct. 1994 - Sep. 1995		Oct. 1995 - Sep. 1996		Oct. 1996 - Sep. 1997			
Tax Collections	\$27,856,877.00	\$22,240,005.00	\$22,562,326.22	\$22,918,463.65	\$27,851,349.76	\$26,097,253.36	\$29,899,176.20	\$29,289,786.00	\$29,112,374.00	\$33,534,573.00	
License Collections			189,986.38		173,559.00		161,191.00		190,961.05		
Total Available	\$27,856,877.00	\$22,240,005.00	\$22,752,312.60	\$22,918,463.65	\$28,024,908.76	\$26,097,253.36	\$30,060,367.20	\$29,289,786.00	\$29,303,335.05	\$33,534,573.00	
Refunds and Credits	1,565,664.00	2,108,625.00	473,560.08	3,354,475.52	425,883.00	4,976,301.00	583,776.20	4,981,841.00	172,088.00	9,002,814.00	
Amounts to distribute	\$26,291,213.00	\$20,131,380.00	\$22,278,752.52	\$19,563,988.13	\$27,599,025.76	\$21,120,952.36	\$29,476,591.00	\$24,307,945.00	\$29,131,247.05	\$24,531,759.00	
Non Highway Deductions:											
Motorboats	186,321.00		183,335.85		222,739.00		237,793.00		234,002.00		
Snowmobile	118,249.00		139,379.47		172,103.00		183,457.00		190,752.00		
Airports	175,827.00		207,675.41		378,206.00		377,597.00		449,303.00		
Total Non-Highway	\$ 480,397.00		\$ 530,390.73		\$ 773,048.00		\$ 798,847.00		\$ 874,057.00		
Amount to distribute after non-highway deductions	\$25,810,816.00	\$20,131,380.00	\$31,800,845.41	\$23,252,973.79	\$26,825,977.76	\$21,120,952.36	\$28,677,744.00	\$24,307,945.00	\$28,257,190.05	\$24,531,759.00	
State Highway fund	12,456,430.00	11,608,748.00	9,130,291.92	14,738,395.93	13,490,229.76	12,030,316.36	14,582,399.00	14,073,746.00	14,374,828.05	14,199,611.00	
Diesel Fuel Administration						336,874.00		548,044.00		386,684.00	
Primary secondary forest	5,291,071.00		4,653,978.18								
SCCFM	2,752,462.00		2,623,467.74		3,313,396.00		3,511,243.00		3,453,468.00		
Payments: cities	2,614,182.00	753,415.00	2,810,863.74	761,935.61	3,550,074.00	825,337.00	3,762,053.00	938,250.00	3,700,143.00	946,341.00	
Payments: counties	2,453,115.00	3,013,662.00	2,529,760.21	4,063,656.59	3,195,056.00	3,301,353.00	3,385,852.00	3,752,998.00	3,330,114.00	3,786,563.00	
ALT Fund					3,277,222.00	4,627,072.00	3,436,197.00	4,994,907.00	3,398,637.00	5,212,560.00	
Total Distributed	\$26,047,657.00	\$15,375,825.00	\$22,278,752.52	\$19,563,988.13	\$27,599,025.76	\$21,120,952.36	\$29,476,591.00	\$24,307,945.00	\$29,131,247.05	\$24,531,759.00	
Balance Carried Forward	\$ 243,556.00	\$ 4,755,555.00									



TABLE 81

County	Area Square Miles	% of State	Rank	Rural Population	% of State	Rank	1995 Assessed Value	% of State	Rank	Average %
Campbell	4,756	4.87%	7	11825	7.14%	3	1,331,629,700	21.37%	1	11.127%
Sweetwater	10,482	10.73%	1	7062	4.27%	8	1,024,102,302	16.43%	2	10.477%
Fremont	9,225	9.45%	2	17437	10.53%	2	226,288,692	3.63%	11	7.869%
Laramie	2,687	2.75%	15	23134	13.97%	1	356,317,806	5.718%	4	7.480%
Park	6,968	7.13%	4	9989	6.03%	5	273,628,284	4.39%	8	5.853%
Natrona	5,366	5.49%	5	11392	6.88%	4	273,294,561	4.39%	7	5.587%
Lincoln	4,081	4.18%	12	9605	5.80%	7	410,798,291	6.592%	5	5.524%
Carbon	7,956	8.15%	3	5310	3.21%	13	244,839,444	3.93%	9	5.094%
Teton	4,219	4.32%	10	6464	3.90%	11	305,750,706	4.91%	6	4.377%
Uinta	2,088	2.14%	22	5905	3.57%	12	415,422,307	6.67%	3	4.123%
Sublette	4,927	5.04%	6	4843	2.92%	16	262,350,711	4.21%	12	4.060%
Converse	4,258	4.36%	9	3899	2.35%	19	227,405,153	3.65%	10	3.455%
Sheridan	2,528	2.59%	17	9658	5.83%	6	104,940,633	1.68%	15	3.368%
Albany	4,321	4.42%	8	4110	2.48%	17	121,443,040	1.95%	13	2.952%
Big Horn	3,154	3.23%	13	6605	3.99%	10	89,907,103	1.44%	16	2.887%
Goshen	2,232	2.285%	20	6722	4.06%	9	59,136,882	0.95%	21	2.431%
Crook	2,864	2.93%	14	5294	3.20%	14	68,849,917	1.105%	18	2.411%
Johnson	4,167	4.27%	11	2868	1.73%	21	74,638,804	1.20%	20	2.399%
Platte	2,108	2.16%	21	4874	2.94%	15	120,804,501	1.94%	14	2.347%
Weston	2,396	2.45%	18	3378	2.04%	20	55,152,190	0.89%	22	1.793%
Washakie	2,239	2.292%	19	2646	1.60%	22	74,395,903	1.194%	19	1.695%
Hot Springs	2,022	2.07%	23	1562	0.94%	23	80,998,028	1.30%	17	1.438%
Niobrara	2,623	2.69%	16	995	0.60%	18	29,659,701	0.48%	23	1.254%
State Total	97,670	100.00%		165,577	100.00%		6,231,754,659	100.00%		



### DOT's Estimates of Future Collections

As noted in the tax rate sections, fuel taxes were increased by the 1998 Legislature. The rate increase was \$.05. Until June 30, 2000, \$.02 of the increase is being diverted for public school funding. The monies will reimburse the state highway account funded by distributions from the State severance tax. Funds from the severance tax fund account will be used to meet the funding obligations under the School finance bill passed by the 1998 Legislature. The amount appropriated for school funding is \$20,000,000. The \$.02 tax collected under Wyoming § 39-17-104(d) and Wyoming § 39-17-204(c) is deposited to the State highway severance tax fund until the \$20,000,000.00 is collected. WYDOT estimates the amount will be reached early in FY 2000. The balance collected from the tax will be distributed to the State Highway fund, municipalities and counties. Presently, there are no exemptions allowed on the \$.02, this will change once the \$20,000,000.00 for the schools is collected. The resulting revenue deductions are evident when fiscal years 2000 and 2001 are compared.

FY	1999	2000	2001	2002
<b>.05 Motor Fuel Tax Increase</b>				
.02 Schools/no exempt.	18,000,000.00	2,000,000.00	-	-
.02 DOT/no exemptions	-	4,400,000.00	-	-
.02 DOT/with exemptions	-	11,800,000.00	-	-
.03 Motor Fuel Tax	17,400,000.00	17,700,000.00	30,000,000.00	30,500,000.00
.08 Motor Fuel Tax	46,400,000.00	47,200,000.00	48,000,000.00	48,800,000.00
<b>Total Receipts</b>	<b>\$ 81,800,000.00</b>	<b>\$ 83,100,000.00</b>	<b>\$ 78,000,000.00</b>	<b>\$ 79,300,000.00</b>

<b>Amount Diverted to Schools</b>	18,000,000.00	2,000,000.00	-	-
<b>State Highway Fund</b>	41,690,196.00	53,030,479.00	51,037,720.00	51,921,678.00
<b>Amount Distributed to Counties</b>				
SCFFM Money	4,927,843.00	6,235,617.00	5,969,824.00	6,042,658.00
Direct Distributions	10,472,073.00	13,324,892.00	12,828,296.00	13,054,480.00
<b>Total Distribution to Counties</b>	15,399,916.00	19,560,509.00	18,798,120.00	19,097,138.00
<b>Amount Distributed to Municipalities</b>	6,709,888.00	8,509,012.00	8,164,160.00	8,281,184.00
<b>Total Distributions</b>	<b>\$ 81,800,000.00</b>	<b>\$ 83,100,000.00</b>	<b>\$ 78,000,000.00</b>	<b>\$ 79,300,000.00</b>



## **CIGARETTE AND TOBACCO PRODUCTION TAX COMPOSITION**

### **Statute Citations and Tax Basis – Cigarette Tax**

The Statutes that governs the imposition, administration, exemptions, rates collection and distribution of the cigarette tax are Wyoming §39-18-101 through §39-18-111. The Wyoming Department of Revenue has established rules and regulations for the cigarette excise tax in Chapter 4 of the department's rules and regulations. The tax is assessed on each cigarette sold by wholesalers or used or stored by consumers if the tax has not paid by the wholesaler. The wholesaler means any person whom:

- (a) imports cigarettes into this state for sale or resale;
- (b) purchases cigarettes in this state for sale to any other person; or
- (c) purchases cigarettes for sale or resale through mechanical vending devices except persons who sell cigarettes in vending devices, which are owned or leased by them and located in their place of business.

The state has the sole right of imposing taxes on cigarettes and no city, town or county may impose, levy or collect a tax on them.

### **Tax Exemptions**

Sales of cigarettes to any agency of the United States government, sales in interstate commerce or the taxation of any transaction prohibited by the United States Constitution are exempted from the cigarette tax. Cigarette sales made on the Wind River Indian Reservation to members of the Shoshone or Northern Arapaho Tribes are exempt.

### **Rates**

The tax levied and collected is an excise tax of \$.006 upon the sale of each cigarette sold by wholesalers. If the tax is not collected from the wholesaler, it is levied on cigarettes used or stored by consumers. The tax on a 20 pack of cigarettes is \$.12 cents, on a 25 pack of cigarettes it is \$.15 cents. Wyoming does not have an excise tax on other tobacco products, though state sales tax is collected on these items.

Wyoming has one of the lowest cigarette tax rates in the United States. Table 6A compares cigarette tax rates and other tobacco product tax rates of surrounding states. The cigarette tax rates of all fifty states is shown in Table 6B, page 2, the tax rates on other tobacco products are given.

Wyoming's cigarette tax ranks forty-sixth with five states having lower tax rates. Effective July 1, 1999 the State will charge sales tax on the sale of cigarettes. Prior to this date they were exempt from this law. Of the 46 states who have a sales tax, 45 charge sales tax on cigarettes. Forty-four states have an excise tax on tobacco products. All of the states surrounding Wyoming have an excise tax on tobacco products.

TABLE 6A

State	Tax Rate on a Twenty Pack	Tobacco Products Tax Rate	Sales Tax Applied
Wyoming	Twelve (12) Cents	20% of manufacturers price, effective July 1, 1999	4% State + County optional
Colorado	Twenty (20) Cents	20% of manufacturers price	NA
Utah	Fifty-one and a Half (51.5) Cents	35% of manufacturers price	4.75% State
Idaho	Twenty-eight (28) Cents	40% of wholesale price	5.0% State
Montana	Eighteen (18) Cents	12.5% of wholesale price	NA
South Dakota	Thirty-three (33) Cents	10% of wholesale price	4.0% State
Nebraska	Thirty-four (34) Cents	15% of wholesale price	5.0% State

TABLE 6B

## State Cigarette Tax Rates

January 1, 1999

STATE	TAX RATE (\$ per pack)	RANK	STATE	TAX RATE (\$ per pack)	RANK
Alabama (1)	16.5	43	Nebraska	34	26
Alaska	100	1	Nevada	35	20
Arizona	58	13	New Hampshire	37	22
Arkansas	31.5	29	New Jersey (1)	80	5
California	87	3	New Mexico	21	36
Colorado	20	37	New York (1)	56	15
Connecticut	50	17	North Carolina	5	49
Delaware	24	32	North Dakota	44	19
Florida	33.9	27	Ohio	24	32
Georgia	12	46	Oklahoma	23	35
Hawaii	100	1	Oregon (3)	68	10
Idaho	28	31	Pennsylvania	31	30
Illinois (1)	58	13	Rhode Island	71	9
Indiana	15.5	44	South Carolina	7	48
Iowa	36	23	South Dakota	33	28
Kansas	24	32	Tennessee (1) (2)	13	45
Kentucky (2)	3	50	Texas	41	21
Louisiana	20	37	Utah	51.5	16
Maine	74	8	Vermont	44	19
Maryland	36	23	Virginia (1)	2.5	51
Massachusetts	76	6	Washington	82.5	4
Michigan	75	7	West Virginia	17	41
Minnesota	48	18	Wisconsin	59	12
Mississippi	18	39	Wyoming	12	46
Missouri (1)	17	41	Dist. of Columbia	65	11
Montana	18	39			
			U. S. Median	34.0	

Source: Compiled by FTA from various sources.

(1) Counties and cities may impose an additional tax on a pack of cigarettes in AL, 1¢ to 6¢; IL, 10¢ to 15¢; MO, 4¢ to 7¢; TN, 1¢; and VA, 2¢ to 15¢.

(2) Dealers pay an additional enforcement and administrative fee of 0.1¢ per pack in KY and 0.05¢ in TN.

(3) In Oregon, the tax rate will decrease to \$0.58 per pack effective 1/1/00.

## Administration

### Licensing, Reporting and Payment

Every wholesaler who sells or offers to sell cigarettes in this state must have license issued by the Department. The annual license fee is \$10.00. A license is required for each location in which a wholesaler operates. A wholesaler residing outside the state may be authorized to sell within the state by adhering to the stamping requirements of the cigarette tax law. Out of state wholesalers must agree to submit their accounting records to examination by the department and to appoint the Wyoming Secretary of State as their attorney for service of process. License fees are deposited to the general fund of the state.

All cigarettes sold in the state must have affixed to them a stamp that is purchased by wholesalers from the department. Wholesalers pay .006 cents a stamp and actually pay the tax in advance of the actual sale of the cigarettes. The stamps can be purchased with certified funds (cash, certified check, money order, wire transfer) or non-certified funds (personal or business check). If the latter method is used a cash or surety bond equal to the face value of the maximum purchase of stamps must be posted with the department. Those wholesalers purchasing stamps with certified funds receive a 6 percent discount.

The stamps must be affixed to cigarette packages in consecutive order. The department must keep accurate records of all stamps sold. Each wholesaler must keep accurate records of all cigarettes purchased and sold for 3 years.

By the twentieth day of each month, the wholesaler must report on a form prescribed by the department:

- (a) The number of packages of cigarettes sold in each incorporated city and town;
- (b) The number of packages of cigarettes sold in each county outside the incorporated cities and towns;
- (c) Other information as required by the department. A copy of the reporting form is included in Appendix A.

### Enforcement

The department can investigate and examine the stock of cigarettes upon any premises where they are stored or sold. All records of the wholesaler shall be available for inspection by the Department at any reasonable time.

Penalties: If packages of cigarettes are found in this state without the necessary stamping affixed to them, they are contraband goods and can either be seized by the department with Board of Equalization approval or a law enforcement official. Unopened packages in transit or in the possession of a licensed wholesaler are not subject to seizure. If such a seizure takes place the cigarettes are to be sold to a licensed wholesaler at market rates. Funds received from such a sale are deposited to the state general fund.

It is a misdemeanor punishable by a fine of not more than \$100.00 or imprisonment in the county jail for not more than 6 months for the following offenses:

- (a) Selling or distributing cigarettes as a wholesaler without a license;
- (b) Selling cigarettes without proper stamping;
- (c) Evading or abetting any person to evade the payment of the taxes imposed by the statute;
- (d) Making a false or fraudulent reporting form.

#### Taxpayer Remedies

The department will refund the cost of stamps to any wholesaler who returns the stamps unused. It will give a credit to any wholesaler on taxes paid for merchandise that is not sellable and has been returned to the manufacturer. A signed statement by the wholesaler and the manufacturer's representative certifying the number of cigarette packages returned must be submitted prior to receiving the credit.

#### Wind River Indian Reservation

Sales of cigarettes made on the Wind River Indian Reservation by an Indian, Indian Tribes or non-Indians to Indian customers are exempt from Wyoming cigarette tax. Cigarettes sold by an Indian, Indian Tribes or non-Indians to non-Indian customers on the Wind River Indian Reservation are taxable.

The wholesaler must be authorized by the department to sell cigarettes to vendors on the reservations without stamps. The vendor on the reservation is responsible for reporting the amount of cigarettes sold to Indians and those sold to non-Indians, and he must collect the tax on the cigarettes sold to non-Indians. The department enters into an agreement annually with the reservation vendor allowing the tax to be paid on a percentage basis. A percentage of sales to non-Indians are agreed to by the department and the vendor, and the tax is then remitted to the department pursuant to the terms and conditions of the agreement.

Members of Indian tribes are required to pay the cigarette tax if they make their purchase off the Wind River Indian Reservation.

## **Tax Collections and Distributions**

### **Tax Collections**

The cigarette tax collections from FY 1992 to FY 1998 are shown in Table 6C.

**TABLE 6C**

#### **State Cigarette Tax Collections**

	<b>FY 1992</b>	<b>FY 1993</b>	<b>FY 1994</b>	<b>FY 1995</b>	<b>FY 1996</b>	<b>FY 1997</b>	<b>FY 1998</b>
<b>Total</b>							
<b>Collections</b>	5,631,725	5,468,054	5,651,377	5,992,519	5,891,976	5,858,465	6,422,903

The increase in tax collections from 1993 through 1998 can be attributed to Wyoming's low tax rate. The states surrounding Wyoming have significantly higher tax rates. Many individuals from other states purchase cigarettes in Wyoming border communities to avoid paying the higher tax in their home state. The truck travel on the state's interstates also enhances the purchase of cigarettes in Wyoming.

### **Tax Distributions**

Thirty-eight and one-fourth percent of the taxes collected are distributed to the State general fund. Sixty-one and three-fourths percent of the taxes collected is distributed to incorporated cities and towns and to the counties in the proportion the cigarette taxes derived from sales within each incorporated city or town or county bears to total cigarette license taxes collected. In other words, each county is returned 61.75 percent of the cigarette taxes collected in the unincorporated areas of the county, and cities and towns are reimbursed the same percentage of the taxes collected within their municipal limits. If a county does not have or has very few cigarette retailers selling in the unincorporated areas of the county, the county will receive very little cigarette tax money. The same is true for municipalities. The department makes computation of each entity's proportion from the monthly reports submitted by wholesalers.

Table 6D, page 7 displays the total distributions to Wyoming counties (amounts shown for counties include the county's portion plus all distributions made to municipalities within county). The distributions to the county for the unincorporated areas and the major towns or cities within the county are also shown. The average per capita cigarette tax distribution within the state between FY 1995 to FY 1997 was a low of \$8.47 in 1997 and a high of \$9.35 in 1996. Most municipalities exceeded this amount, some significantly. Border towns Torrington, Sheridan, Jackson, and Afton had exceeded the state average by as much \$10.00 reflecting the sales made to out of state residents. Jackson's high distribution is also due to the impact of the tourist industry. Uinta County had the highest distribution per capita for counties. Utah has a \$.515 excise tax per pack and borders Uinta County. Collections in Uinta County have increased steadily since July 1, 1997 when Utah's tax increased to its present level.



Some counties and municipalities benefit from having an interstate pass through their boundaries. Carbon County lies on I-80. Both Rawlins and the county itself have more cigarette tax distributions per capita than Washakie, Hot Springs or Fremont counties, which do not have a major highway. Fremont County's low tax distribution also reflects the fact that taxes are not collected on cigarettes sold to Indians on the reservation.

There are anomalies. Mills, a suburb of Casper, has the highest per capita distribution rate of any community in Wyoming. Mill's Clerk Treasurer, Norene Kilmer, stated there are two retailers in the town's limits that sell cigarettes at a considerably lower price than other retailers. These merchants attract many customers from within and outside the state's borders. Some communities, like Pinedale, have high per capita collections but do not border an interstate or another state. Pinedale's distributions did drop considerably in 1997. Other communities, like Laramie, have very low per capita collections, even though Albany County borders Colorado and is a main stopping point along I-80.

Joyce Stewart, past administrator of the Excise Division of the Wyoming Department of Revenue, remarked there have been times when wholesalers do not accurately report the locations where their cigarettes have been sold. Since the department relies on these reports to figure the distributions, sometimes communities are not accurately credited with the taxes due them. Once the error is discovered, the department must make the adjustments in future distributions. This situation did occur in Lyman, when they received cigarette taxes that should have gone to Uinta County. Lyman is presently reimbursing Uinta County over a period time for the cigarette taxes the town received in error.

TABLE 6D

## Cigarette Revenue Distributions

Influences	1996 Population	1996 Tax Distributions Countywide	1996 Cigarette Tax Individual Distributions	1996 Tax Per Capita	1997 Estimated Population 1997	1997 Tax Distributions Countywide	1997 Cigarette Tax Individual Distributions	1997 Tax Per Capita	1998 Estimated Population	1998 Tax Distributions Countywide	1998 Cigarette Tax Individual Distributions	1998 Tax Per Capita
Statewide	481,400		4,499,186.00	9.35	481,010		4,364,228.49	9.07	480,960		4,308,627.04	8.96
Albany	30,831	199,197	1,581.00	6.46	30,960	198,236	2,084.00	6.40	29,680	194,110.69	4,208.28	0.14
Laramie	26,583		197,502.00	7.43	26,802		193,072.00	7.20	25,741		189,851.99	7.38
Laramie	79,175	752,851	120,250.00	9.51	79,750	702,644	197,464.00	8.81	78,750	748,943.55	224,222.08	2.85
Cheyenne	53,729		604,668.00	11.25	54,391		481,000.00	8.84	53,807		506,125.03	9.41
Goshen	12,731	126,824	16,202.00	9.96	12,760	137,740	7,894.00	10.79	12,870	136,211.87	6,353.56	0.49
Torrington	5,950		109,470.00	18.40	5,892		124,154.00	21.07	5,951		124,902.60	20.99
Niobrara	2,637	19,980	276.00	7.58	2,650	18,874	325.00	7.12	2,630	18,086.97	446.23	0.17
Lusk	1,574		19,689.00	12.51	1,588		18,510.00	11.66	1,585		17,603.78	11.11
Crook	5,763	35,828	10,562.00	6.22	5,780	42,016	17,057.00	7.27	5,830	55,237.68	27,304.11	4.68
Sundance	1,245		12,838.00	10.31	1,239		12,015.00	9.70	1,250		11,299.63	9.04
Campbell	32,012	319,042	5,161.00	9.97	32,210	320,767	6,083.00	9.96	32,230	316,717.24	10,508.07	0.33
Gillette	19,202		307,609.00	16.02	19,289		308,789.00	16.01	19,322		298,577.05	15.45
Sheridan	25,318	248,825	13,967.00	9.83	25,430	213,337	5,444.00	8.39	25,260	231,630.11	3,479.20	0.14
Sheridan	14,730		263,667.00	17.90	14,916		202,251.00	13.56	14,839		225,031.41	15.16
Big Horn	11,276	67,253	1,523.00	5.96	11,380	66,579	1,182.00	5.85	11,080	64,658.48	2,869.45	0.26
Basin	1,262		15,870.00	12.58	1,273		14,226.00	11.18	1,243		14,515.49	11.68
Greybull	1,916		22,367.00	11.67	1,934		23,772.00	12.29	1,887		19,685.39	10.43
Lovell	2,265		22,986.00	10.15	2,298		23,815.00	10.36	2,242		24,170.47	10.78
Park	25,373	208,159	4,770.00	8.20	25,600	205,165	6,233.00	8.01	25,820	192,356.35	1,565.59	0.06
Cody	8,721		128,225.00	14.70	8,761		130,762.00	14.93	8,845		126,104.61	14.26
Powell	5,680		72,169.00	12.71	5,818		65,297.00	11.22	5,874		62,932.32	10.71
Teton	13,587	125,200	9,665.00	9.21	13,760	115,757	14,434.00	8.41	14,090	116,631.56	22,714.74	1.61
Jackson	5,614		115,535.00	20.58	5,683		101,323.00	17.83	5,823		93,916.82	16.13
Lincoln	13,971	61,231	2,131.00	4.38	14,040	66,133	3,972.00	4.71	13,920	112,723.90	10,680.08	0.77
Afton	1,437		27,208.00	18.93	1,518		30,396.00	20.02	1,506		27,488.83	18.25
Kemmerer	3,055		9,172.00	3.00	3,267		10,541.00	3.23	3,241		53,128.41	16.39
Ulnata	20,255	381,320	229,519.00	18.83	20,360	387,789	213,396.00	19.05	20,330	443,272.67	191,329.07	9.41
Evanston	11,514		131,717.00	11.44	11,768		155,112.00	13.18	11,766		228,792.11	19.45
Lyman	2,075		5,362.00	2.58	2,070		2,599.00	1.26	2,069		8,187.21	3.96
Mountain View	1,365		14,722.00	10.79	1,324		16,682.00	12.60	1,323		14,964.28	11.31
Sweetwater	40,322	387,113	12,751.00	9.60	40,360	384,297	12,546.00	9.52	39,630	405,467.69	19,376.00	0.49
Rock Springs	19,742		263,667.00	13.36	19,798		256,014.00	12.93	19,469		284,080.95	14.59
Green River	13,289		101,117.00	7.61	13,271		103,346.00	7.79	13,050		101,293.88	7.76

Influences	1996 Population	1996 Tax Distributions Countywide	1996 Cigarette Tax Individual Distributions	1996 Tax Per Capita	1997 Estimated Population 1997	1997 Tax Distributions Countywide	1997 Cigarette Tax Individual Distributions	1997 Tax Per Capita	1998 Estimated Population	1998 Tax Distributions Countywide	1998 Cigarette Tax Individual Distributions	1998 Tax Per Capita
<b>Carbon</b>												
Rawlins	15,855	216,895	17,447.00	13.68	15,830	201,228	14,326.00	12.71	15,770	22,503.91	16,770.22	1.06
Saratoga	11,989		160,106.00	13.35	8,944		149,639.00	16.73	8,909		153,791.08	17.26
Converse	1,865		18,597.00	9.97	1,859		17,624.00	9.48	1,852		16,208.91	8.75
Glenrock	11,989	82,000	148.00	6.84	12,060	90,435	5,193.00	7.50	12,360	85,617.35	10,017.08	0.81
Douglas	2,288		13,545.00	5.92	2,321		12,182.00	5.25	2,365		12,023.86	5.08
Fremont	5,432		68,307.00	12.57	5,481		73,060.00	13.33	5,586		63,576.41	11.38
Lander	35,940	208,538	60,972.00	5.80	36,200	201,892	58,005.00	5.58	36,010	197,458.17	51,029.58	1.42
Riverton	7,372		52,987.00	7.19	7,457		49,184.00	6.60	7,428		45,268.50	6.09
Hot Springs	10,050		76,464.00	7.61	10,036		78,264.00	7.80	9,997		86,114.08	8.61
Thermopolis	4,627	34,043	566.00	7.36	4,640	32,505	787.00	7.01	4,690	31,449.14	1,995.00	0.43
Johnson	3,101		33,380.00	10.76	3,117		31,437.00	10.09	3,370		29,249.93	8.68
Buffalo	6,690	46,122	259.00	6.89	6,740	48,535	20.16	7.20	6,830	45,693.40	391.56	0.06
Natrona	3,572		41,951.00	11.74	3,606		43,306.00	12.01	3,659		42,615.18	11.65
Casper	63,875	766,093	8,098.00	11.99	64,160	700,585	35,576.00	10.92	63,690	669,262.70	2,450.27	0.04
Mills	48,800		551,994.00	11.31	49,050		438,280.00	8.94	48,758		412,825.95	8.47
Weston	1,648		185,960.00	112.84	1,649		206,595.00	125.29	1,639		208,421.77	127.16
Newcastle	6,554	58,563	1,098.00	8.94	6,560	54,124	919.00	8.25	6,500	51,883.36	1,233.63	0.19
Platte	3,163		49,955.00	15.79	3,171		46,442.00	14.65	3,139		44,177.25	14.07
Wheatland	8,425	54,964	-	6.52	8,480	61,253	688.00	7.22	8,580	66,811.04	1,531.18	0.18
Sublette	3,437		39,385.00	11.46	3,433		46,249.00	13.47	3,475		48,571.02	13.98
Pinedale	5,577	45,073	5,270.00	8.08	5,640	34,400	5,346.00	6.10	5,750	36,230.02	3,118.55	0.54
Washakie	1,274		24,616.00	19.32	1,332		15,236.00	11.44	1,359		17,320.67	12.75
Worland	8,617	54,072	-	6.28	8,660	79,937	649.00	9.23	8,660	65,669.19	2,425.31	0.28
	5,937		51,634.00	8.70	5,942		76,899.00	12.94	5,956		60,800.96	10.21

**EXHIBIT A**

**Cigarette Wholesaler's Monthly Report**

License Number \_\_\_\_\_ SSN/EIN \_\_\_\_\_ Report for Month Ended \_\_\_\_\_  
Company Name \_\_\_\_\_  
Mailing Address \_\_\_\_\_ Business Location \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

**Cigarette Inventory Reconciliation (Packages):**

1. Beginning inventory
2. Purchases
3. Cigarette packs available for sale
4. Deductions:
  - a. Exported from state
  - b. Sold on Wind River Reservation - Exempt (See Instructions)
  - c. Ending inventory - without Wyoming stamps
  - d. Ending inventory - stamped with Wyoming stamps
5. Total Deductions
6. Stamped packages sold/delivered

Packages (20)	Packages (25)	Other	Total

**Stamps/Meter Settings Reconciliation:**

7. Beginning stamp/meter settings inventory
8. Stamps/meter settings purchased during the month
9. Total stamps/meter settings available
10. Deductions:
  - a. Stamps spoiled and returned to Department for refund
  - b. Ending inventory - stamps/meter readings
  - c. Ending inventory - stamped packages
11. Total Deductions
12. Total stamped/metered packs sold/delivered during the month

Stamps	Meter Settings		Total

**Taxable Cigarette Sales:**

Purchaser	Purchaser's Location	Packages (20)	Packages (25)	Other	Size
(1)					
(2)					
(3)					
(4)					
(5)					
Total Number of Packages of ALL Sizes Sold During the Month		Totals for This Page			
		Totals for Page 2			
		Grand Total			

Under penalty of law, I declare that I have examined this report, including accompanying schedules and statements and, to the best of my knowledge and belief, it is correct and complete.

Signed: \_\_\_\_\_ Title: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Telephone No: \_\_\_\_\_ Date: \_\_\_\_\_

**This report is due on or before the 20th day of the month following the tax period indicated above.**

Company Name \_\_\_\_\_ License Number \_\_\_\_\_



**Company Name** \_\_\_\_\_

**License Number** \_\_\_\_\_

**Calculation of Cigarette Taxes Due:**

- |   |        |
|---|--------|
| 1. Enter the Grand Total of 25-Cigarette Packages Sold During the Month |        |
| 2. Multiplication Factor (2.82 cents per package)                       | 0.0282 |
| 3. Tax Due on 25-Cigarette Packages                                     |        |

0.0282

**Exempt Cigarettes Sold in Other States:**

Purchaser	Purchaser's Location	Packages (20)	Packages (25)	Other	Size
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9)					
(10)					
(11)					
(12)					
(13)					
(14)					
	Totals				

***Exempt Cigarettes Sold on the Wind River Reservation:***

Purchaser	Purchaser's Location	Packages (20)	Packages (25)	Other	Size
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9)					
(10)					
(11)					
(12)					
(13)					
(14)					
(15)					
(16)					
(17)					
(18)					
Totals					

**Taxable Cigarette Sales:**

Purchaser	Purchaser's Location	Packages (20)	Packages (25)	Other	Size
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9)					
(10)					
(11)					
(12)					
(13)					
(14)					
(15)					
(16)					
(17)					
(18)					
(19)					
(20)					
(21)					
(22)					
(23)					
(24)					
(25)					
(26)					
(27)					
(28)					
(29)					
(30)					
(31)					
(32)					
(33)					
(34)					
(35)					
(36)					
(37)					
(38)					
(39)					
(40)					
(41)					
(42)					
Totals for This Page					

**General Instructions:**

- (1) You must file this report monthly on or before the 20th day after the month in which the cigarettes were sold.
- (2) Report all cigarette sales by package, not carton or individual cigarette.
- (3) You must file a return each month, regardless of whether you sold any cigarettes. You should file the original report with the Department of Revenue and retain one copy, together with all substantiating documentation, for a minimum of three (3) years.
- (4) You must provide your taxpayer identification number on the return, as well as your license number. The taxpayer identification number is either your federal employer identification number (EIN), or your social security number (SSN) if you are a sole proprietor with no employees.
- (5) The licensee or authorized agent must sign the return.

**Specific Instructions:**

- Line 1: This amount should equal the TOTAL of lines 4.c. and 4.d. from the preceding month. If the figures are not equal, attach an explanation reconciling the figures.
- Line 2: Enter the total number of packages of cigarettes, by size, you purchased and received from manufacturers or others, as shown on your Cigarette Receipts Report.
- Line 3: Total Lines 1 and 2.
- Line 4a: Enter the number of packages of cigarettes sold out of state during the month. The totals reported must agree with the totals shown in the middle section of page 3 of this report.
- Line 4b: Enter the number of packages of cigarettes sold to retailers on the Wind River Indian Reservation per pre-approved agreement with the Department of Revenue. The totals reported must agree with the totals shown in the bottom section of page 3 of this report.
- Line 4c: Enter the ending inventory of packages without Wyoming stamps for the month. Include all packages bearing stamps for other
- Line 4d: Enter your ending inventory of packages bearing Wyoming tax stamps.
- Line 5: Total Lines 4.a. through 4.d.
- Line 6: Subtract Line 5 from Line 3. Enter the total for the first three columns in the last column.
- Line 7: This amount should equal the TOTAL of lines 10.b. and 10.c. from the preceding month. If the figures are not equal, attach an explanation reconciling the figures.
- Line 8: Enter the number of Wyoming stamps or meter readings purchased during the month.
- Line 9: Total Lines 7 and 8.
- Line 10a: Enter the number of stamps that were spoiled during the month.
- Line 10b: Enter ending inventory of stamps and/or ending meter reading for the month.
- Line 10c: Enter the ending inventory of stamped packages. The total of stamped and metered packages on this line must equal the total of the first three columns on line 4.d., above.
- Line 11: Total Lines 10.a. through 10.c.
- Line 12: Subtract Line 11 from Line 9. Enter the total for the first two columns in the last column. This crossfooted total should agree with the corresponding total on Line 6. If it does not, attach an explanation reconciling the two figures.
- Taxable Cigarette Sales:**  
Report one line item for the total number of 20 and 25 packs sold per month to each retail location. If the purchaser is another wholesaler, enter the word "Wholesaler" together with the purchaser's license number in the "Purchaser's Location" space on the report. Attach additional Page 2's if necessary.
- Totals:** Total each page and enter the amounts in the appropriate boxes on Page 1. If you use additional Page 2's, the totals on Page 1 should be the combined total of all Page 2's. The grand totals should be the sum of the page totals. The figure in the box to the left should be the crossfoot total of the Grand Total line and should equal the grand totals on lines 6 and 12.

**Calculation of Cigarette Taxes Due (top of page 3):**

The Department initially sells stamps/meter settings based on the assumption they will be used on 20-cigarette packages. If the stamps are affixed to 25-cigarette packs, five cigarettes are left untaxed. The tax on those five cigarettes is 2.82 cents per package. Compute the additional tax due and enclose a check for the amount computed. EXCLUDE stamped packages purchased from other wholesalers from the computation.

## **Statute Citations and Tax Basis – Tobacco Products Tax**

The 1999 Wyoming State Legislature adopted a tax on tobacco products other than cigarettes to take effect July 1, 1999. The statute that will govern the imposition, administration, exemptions, rates, collection and distribution of the tobacco products tax is the same legislation that covers the cigarette tax Wyoming §39-18-101 through §39-18-111. The tax is assessed upon cigars snuff and other tobacco products sold in the state, and or imported into the State for resale by wholesalers or used or stored by consumers if the tax has not paid by the wholesaler. The wholesaler means any person who:

- (a) Imports cigars, snuff or other tobacco products in this state for sale or resale.
- (b) Purchases cigars, snuff or other tobacco products in this state for sale or resale.

### **Rates**

- (a) The tax levied and assessed upon cigars, snuff and other tobacco products sold in this state, or imported into this State for resale is 20 percent of the wholesale price at which the tobacco products are purchased by wholesalers.
- (b) The tax levied and assessed upon cigars, snuff and other tobacco products in this state, and upon those consumers, at the rate of 10 percent of the retail price of the cigar, snuff or other tobacco product. The tax does not apply if the wholesaler has paid the tax.

### **Administration**

#### **Licensing, Reporting and Payment**

Every wholesaler who sells or offers to sell cigars, snuff or other tobacco products in this state must have license issued by the department. The annual license fee is \$10.00. A license is required for each location in which a wholesaler operates.

Each wholesaler must keep complete and accurate records of all cigars, snuff, or other tobacco products purchased and sold for 3 years.

By the 20<sup>th</sup> day of each month, the wholesaler must report on a form prescribed by the department:

- (a) The amount of cigars, snuff or other tobacco products sold in each incorporated city and town.
- (b) The amount of cigars, snuff or other tobacco products sold in each county outside the incorporated cities and towns;
- (c) On or before the 10th day of each calendar quarter, every consumer who during the preceding calendar quarter, has acquired title to or possession of cigars, snuff or other tobacco products must file a return with the State. If the Wyoming tobacco products tax has already been paid by the wholesaler, the return is not necessary. The form will be provided by the Department of Revenue and will request the quantity of such products required. The consumer must file the report with the tax remittance due.

### **Enforcement**

It is a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00) or imprisonment in the county jail for not more than six (6) months for the following offenses:

- (a) Selling or distributing cigars, snuff or other tobacco products as a wholesaler without a license;
- (b) Any person who purchases any tobacco product for resale in this state from other than a licensed wholesaler is liable for the tax and any penalties and interest imposed as if he was a wholesaler. In addition he is liable for a 25 percent of any tax due.
- (c) If a whole wholesaler or other person who does not pay the tax or fail the return as required is subject to a 5 percent penalty on the amount of tax due plus one-percent of the tax for each month of delinquency.

### **Tax Collections and Distributions**

#### **Tax Collections**

The Legislative Service Office estimates the Tobacco Products tax will generate \$1,140,000.00 in FY 1999.

#### **Tax Distributions**

Tax will be distributed to the state general fund.



## LIQUOR AND MALT BEVERAGE EXCISE TAX

### Statute Citations and Tax Basis – Liquor Excise Tax

The Wyoming Liquor Division is a division within the Wyoming Department of Revenue. The director of the department appoints an administrator of the division. The division administers all programs formerly administered by the Wyoming Liquor Commission. The Wyoming Liquor Commission, composed of the five state elected officials, was disbanded on July 1, 1996, and the newly created Wyoming Liquor Division assumed its duties. The division's actions are governed by Wyoming § 12-1-101 through § 12-9-119.

The State of Wyoming through the Liquor Division is the exclusive distributor and seller of distilled spirits and wine within Wyoming, and all retailers must purchase their liquor and wine inventory from the State Liquor Division. The Liquor Division grants a wholesale license to malt beverage breweries and wholesalers to sell malt beverage products to retailers within Wyoming.

### Rates

The state excise tax on spirits is \$.025/100 ml or 3.4 oz. This equates to \$.19 per 750 ml bottle of liquor or \$2.25 per case (a case contains twelve 750 ml bottles). The tax on a gallon is \$0.94.

The state excise tax on wine is \$.0075/100 ml or 3.4 oz. This equates to \$0.056 per 750 ml bottle of wine or \$0.68 per case (a case contains twelve 750 ml bottles). The tax on a gallon is \$0.28.

The state excise tax on beer is \$.005/liter or 33.8 oz. This equates to \$.02 per gallon.

Liquor and malt beverage sales in Wyoming are subject to the state and local sales tax. The retailer collects the tax.

It is difficult to compare the excise tax rates for the 50 states because of the liquor control states. In liquor control states, the government directly controls the sales of distilled spirits and in some cases, wine. Wyoming is one of 18 states that controls the sale of distilled spirits and one of 4 states that controls the sale of wine. Utah is the only state with limited control of the sale of malt beverages. Revenue in controlled states is generated from excise taxes, fees and net liquor profits from wholesale operations, retail and franchise or agency operations. Wyoming adds a 17.6 percent mark up to the division's cost of liquor and in-coming freight costs. To this price is added the out-going freight cost to retailers and the excise tax. The total is the wholesale price to retailers. Table 7A provides a sample wholesale price calculation from the Liquor Division to the liquor retailer for both distilled spirits and wine.

Wyoming liquor taxes are figured on quantity. Many states structure their excise taxes on alcohol content and quantity. The greater the content the higher the tax. Table 7B, 7C, and 7D compares the excise taxes for distilled spirits, wine and malt beverages.

Untitled

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WYOMING DEPARTMENT OF REVENUE  
LIQUOR DIVISION  
1520 East 5th Street  
Cheyenne WY 82002-0110  
PH: (307)777-6451 FAX: (307)777-5872  
Website: <http://revenue.state.wy.us>

WHOLESALE CASE PRICE ANALYSIS (Example of Per Case Price - 750ml - 12/case)			
WINE			DISTILLED SPIRITS
100.00	FOB Price Per Case (factory price)		100.00
1.95	Incoming Freight (Zone 3)		1.95
101.95	Inventory Cost		101.95
17.95	+ 17.6% Mark-up (rounded up to full penny)		17.95
119.90			119.90
3.50	+ Outgoing Freight (per case)		3.5
.68	+ State Excise Tax		2.25
124.08	Case Price to Retailer		125.65
10.34	Bottle Price (Case Price to Retailer 12 bottles & rounded up to full penny)		10.47
124.08	Final Wholesale Case Price (Bottle Price x 12 bottles)		125.64

Final retail price to consumer is determined by private sector licensee.

BEVERAGE ALCOHOL TAXES

State Excise Tax on Spirits	\$0.25/100 ml or 3.4 oz.
State Excise Tax on Wine	\$0.0075/100 ml or 3.4 oz.
State Excise Tax on Beer	\$0.005/liter or 33.8 oz.
Other specific taxes levied on spirits, wine or beer	NONE

WINE FORMULA: Ounces per bottle 3.4 oz x .0075 x bottles per case = tax applicable

DISTILLED SPIRITS FORMULA: Ounces per bottle 3.4 oz x .025 x bottles per case = tax applicable

ZONE	AREA
1	CA (CONSOLIDATION WAREHOUSE)
2	CA (OTHER)
3	IL, IN, IA, KY, MI, MN, MO, OH, WI
4	AL, AR, FL, GA, LA, MS, NC, SC, TN
5	CT, DE, ME, MD, MA, NH, NJ, PA, RI, VA, WV

CONTACT LIQUOR DIVISION FOR CURRENT RATE PER CASE IN EACH ZONE.

TABLE 7A

# State Liquor Excise Tax Rates

## January 1, 1999

TABLE 7B

State	Excise Tax Rate-per gallon	Sales Taxes Applied	Other Provisions
Alabama	(1)	Yes	
Alaska	\$5.60	NA	under 21% alcohol content - \$0.85/gal
Arizona	3.00	Yes	
Arkansas	2.50	Yes	Under 5%-\$0.50/gal, under 21%-\$1.00/gal; \$.20/case and 3% off-14% on premises tax
California	3.30	Yes	Over 50% -\$6.60/gallon
Colorado	2.28	Yes	
Connecticut	4.50	Yes	Under 7%-\$2.05/gal.
Delaware	3.75	NA	Under 25%-\$2.50/gal.
Florida	6.50	Yes	Under 17.25%-\$2.25/gal, over 55.78%-\$9.53/gal \$0.10/ounce on-premises retail tax
Georgia	3.79	Yes	\$0.83/gal local tax
Hawaii	5.92	Yes	
Idaho	(1)	Yes	
Illinois	2.00	Yes	under 14%-\$0.23/gal; local taxes in addition.
Indiana	2.68	Yes	under 15%-\$0.47/gal
Iowa	(1)	Yes	
Kansas	2.50	No	8% off- and 10% on-premise retail tax
Kentucky	1.92	Yes	under 6%-\$0.25/gal; \$0.05/case and 9% wholesale tax
Louisiana	2.50	Yes	under 6%-\$0.32/gal
Maine	(1)	Yes	
Maryland	1.50	Yes	
Massachusetts	4.05	Yes	under 15%-\$1.10/gal, over 50% alcohol-\$4.05/proof gallon
Michigan	(1)	Yes	
Minnesota	5.03	-	\$0.01/bottle (except miniatures) and 8.5% sales tax
Mississippi	(1)	Yes	
Missouri	2.00	Yes	
Montana	(1)	NA	
Nebraska	3.00	Yes	
Nevada	2.05	Yes	under 14%-\$0.40/gallon and under 21%-\$0.75/gallon
New Hampshire	(1)	NA	
New Jersey	4.40	Yes	
New Mexico	6.06	Yes	
New York	6.44	Yes	under 24%-\$2.54/gallon; Local taxes
North Carolina	(1)	Yes	Sales tax is applied on-premises sales only
North Dakota	2.50	-	7% state sales tax
Ohio	(1)	Yes	
Oklahoma	5.56	Yes	\$1.00/bottle on premise and 12% on premises
Oregon	(1)	NA	
Pennsylvania	(1)	Yes	
Rhode Island	3.75	Yes	
South Carolina	2.72	Yes	\$5.36/case and 9% surtax
South Dakota	3.93	Yes	under 14%-\$0.93/gallon, 2% wholesale tax
Tennessee	4.00	Yes	\$0.15/case and 15% on premise; under 7%-\$1.10/gal
Texas	2.40	Yes	14% on premise and \$.05/drink on airline sales
Utah	(1)	Yes	
Vermont	(1)	No	
Virginia	(1)	Yes	
Washington	(1)	Yes*	Sales tax is applied on-premises sales only
West Virginia	(1)	Yes	
Wisconsin	3.25	Yes	
Wyoming	(1)	Yes	
US Median	3.25		

(1) In 18 states, the government directly controls the sales of distilled spirits.

# **State Wine Excess Tax Rates** **January 1, 1999**

**TABLE 7C**

State	Excise Tax Rate-per gallon	Sales Taxes Applied	Other Provisions
Alabama	1.70	Yes	over 14% - sold through state stores
Alaska	.85	NA	
Arizona	.84	Yes	
Arkansas	.75	Yes	under 5%-\$0.25/gal;\$0.05/case; 3% off & 10% on premises tax
California	.20	Yes	sparkling wine - \$0.30/gallon
Colorado	.32	Yes	
Connecticut	.60	Yes	over 21% and sparkling wine - \$1.50/gal
Delaware	.97	NA	
Florida	2.25	Yes	over 17.25%- \$3.00/gal; sparkling wine \$3.50/gal, premises tax
Georgia	1.51	Yes	over 14%-\$2.54/gal; \$0.83/gal local tax
Hawaii	1.36	Yes	Sparkling wine - \$2.09/gal and wine coolers - \$0.84/gal
Idaho	.45	Yes	
Illinois	.23	Yes	over 14%-\$0.60/gal; Local taxes in addition
Indiana	.47	Yes	over 21%-\$2.68/gal
Iowa	1.75	Yes	under 5%-\$0.19/gal
Kansas	.30	No	over 14%-\$0.75/gal; 8% off and 10% on premises
Kentucky	.50	Yes*	9% wholesale
Louisiana	.11	Yes	14% to 24%-\$0.23/gal, over 24% and sparkling wine \$1.59/gal over 15.5% sold through liquor store, sparkling wine-\$1.25 gal
Maine	.60	Yes	
Maryland	.40	Yes	
Massachusetts	.55	Yes*	sparkling wine - \$0.70/gal
Michigan	.51	Yes	over 16%-0.76/gal
Minnesota	.30	-	14%to 21% - \$0.95/gal, under 24% and sparkling wine-\$1.82/gal 8.5% sales tax
Mississippi	.35	Yes	over 14% and sparkling wine - sold through the state
Missouri	.36	Yes	
Montana	1.06	NA	over 16%-sold through state stores, 7% surtax
Nebraska	.75	Yes	over 14% - \$1.35/gal
Nevada	.40	Yes	14% to 22% - .75/gal; over 22% - \$2.05/gal
New Hampshire	(1)	NA	
New Jersey	.70	Yes	
New Mexico	1.70	Yes	over 14%-\$6.06/gal
New York	.19	Yes	
North Carolina	.79	Yes	over 17%-\$0.91/gal
North Dakota	.50	-	over 17%-\$0.60/gal, sparkling wine -\$1.00/gal; 7% sales tax
Ohio	.32	Yes	over 14%-\$1.00/gal, vermouth-\$1.10/gal, sparkling wine-1.50/gal
Oklahoma	.72	Yes	over 14%-\$1.44/gal, sparkling wine-\$2.08/gal, premises tax-12%
Oregon	.67	NA	over 14%-\$0.77/gal
Pennsylvania	(1)	Yes	
Rhode Island	.60	Yes	sparkling wine - \$0.75/gal
South Carolina	.90	Yes	\$0.18/gal additional tax
South Dakota	.93	Yes	14%-20%-\$1.45/gal, over 21% and sparkling wine \$2.07/gal; 2% wholesale tax
Tennessee	1.10	Yes	\$0.15/case and 15% on premise; under 7%-\$1.10/gal
Texas	.20	Yes	over 14%-\$0.408/gal and sparkling wine-\$0.516/gal; 14% on-premise and \$.05/drink, on airline sales
Utah	(1)	Yes	
Vermont	.55	Yes	over 16%-sold through state store
Virginia	1.51	Yes	under 4%-\$0.2565/gal and over 14%-sold through state store
Washington	.87	Yes	over 14%-\$1.72/gal
West Virginia	1.00	Yes	over 14%-sold through state store
Wisconsin	.25	Yes	over 14%-\$0.45/gal

State	Excise Tax Rate-per gallon	Sales Taxes Applied	Other Provisions
Wyoming	(1)	Yes	
US Median	.73		

\*Sales tax is applied on .73-premises sales only

(1) In four (4) states, the government directly controls total wine sales.

### State Beer Excise Tax Rates January 1, 1999

TABLE 7D

State	Excise Tax Rate-per gallon	Sales Taxes Applied	Other Provisions
Alabama	\$0.53	Yes	\$0.52/gal local tax
Alaska	0.35	NA	
Arizona	0.16	Yes	
Arkansas	0.23	Yes	under 3.2%-\$0.16/gal; \$0.008/gal and 10% on premise tax
California	0.20	Yes	
Colorado	0.08	Yes	
Connecticut	0.19	Yes	
Delaware	0.16	NA	
Florida	0.48	Yes	\$0.04/12ounce on premises retail tax
Georgia	0.48	Yes	\$0.53/gal local tax
Hawaii	0.92	Yes	\$0.53/gal draft beer
Idaho	0.15	Yes	over 4%-\$0.45/gal
Illinois	0.07	Yes	Local taxes in addition
Indiana	0.12	Yes	
Iowa	0.19	Yes	
Kansas	0.18	-	over 3.2%-(8%off and 10% on premise); under 3.2%-4.25%sales tax
Kentucky	0.08	Yes*	9% wholesale tax
Louisiana	0.32	Yes	\$0.048/gal local tax
Maine	0.35	Yes	additional 5% on-premise tax
Maryland	0.09	Yes	Local taxes in addition
Massachusetts	0.11	Yes*	0.57% on private club sales
Michigan	0.20	Yes	
Minnesota	0.15	-	under 3.2%-\$0.077/gal; 8.5% sales tax
Mississippi	0.43	Yes	
Missouri	0.06	Yes	
Montana	0.14	NA	plus 7% surtax
Nebraska	0.23	Yes	
Nevada	0.09	Yes	
New Hampshire	0.30	NA	
New Jersey	0.12	Yes	
New Mexico	0.41	Yes	
New York	0.16	Yes	Local taxes in addition
North Carolina	0.48	Yes	
North Dakota	0.16	-	7% state sales tax
Ohio	0.18	Yes	
Oklahoma	0.40	Yes	under 3.2%-\$0.36/ga; \$1.00/case on-premise and 12% on premise
Oregon	0.08	NA	
Pennsylvania	0.08	Yes	
Rhode Island	0.10	Yes	\$0.04/case wholesale tax
South Carolina	0.77	Yes	
South Dakota	0.27	Yes	
Tennessee	0.13	Yes	17% wholesale tax
Texas	0.19	Yes	over 4%-\$0.198/gal, 14% on premise & .05/drink on airline sales



State	Excise Tax Rate-per gallon	Sales Taxes Applied	Other Provisions
Utah	0.35	Yes	over 3.2%- sold through state stores
Vermont	0.27	No	6% to 8% alcohol – 0.55; 10% on premise sales tax
Virginia	0.26	Yes	
Washington	0.15	Yes*	plus, \$4.78/ barrel additional tax
West Virginia	0.18	Yes	
Wisconsin	0.06	Yes	
Wyoming	0.02	Yes	
US Median	0.185		

\*Sales tax is applied on-premises sales only

(1) In 18 states, the government directly controls the sales of distilled spirits.

Wyoming's \$0.94 per gallon excise tax on spirits and \$0.28 per gallon tax on wine is low when compared to other states. Non-controlled states do have higher tax rates. They do not generate profits from the sale of liquor. The Table 7E shows the profits Wyoming has made from the sale of liquor from FY 1996-1998.

**TABLE 7E**

	Net Sales	Expenses	Net Profit
<b>FY 1996</b>	32,838,345.23	28,116,624.46	4,721,720.77
<b>FY 1997</b>	34,718,299.66	29,812,035.34	4,906,264.32
<b>FY 1998</b>	36,935,075.11	31,716,225.67	5,218,849.44

The Consensus Revenue Estimating Group (CREG) estimates for each \$0.30/ gallon increase in the wine tax and a \$1.00/gallon increase in the distilled spirits tax, Wyoming would realize an additional \$800,000 per year in tax income. Retailers in alcoholic beverages contend that with the mark up of 17.6 percent the liquor commission charges on the wholesale price, any additional taxes would impair their profit margins.

The excise tax on beer is the lowest of all fifty states. CREG estimates that for each \$0.01 per gallon each, Wyoming could generate \$100,000.00.

### **Tax Exemptions**

By statute, there are not any exemptions for the liquor excise tax.

### **Administration**

#### **Licensing Reporting and Payment**

The Liquor Division issues the following licenses:

1. Wholesale license for sale of malt beverages – The license is granted to breweries and malt beverage wholesalers resident within the state. The annual fee is \$250.00. (Wyoming § 12-2-201)
2. Vendor sales representative license - The license is granted to agents, salesmen, solicitors, brokers, sales consultants and representatives of distilleries, breweries and wineries marketing products in Wyoming. The annual fee is \$25.00. (Wyoming § 12-2-203)
3. Alcoholic manufacturing license – This license is granted to the manufacturer and bottler of alcoholic beverages. Distilled spirits and wines must be sold to the division and malt beverages sold to licensed wholesalers in the State. The annual fee is \$250.00. (Wyoming § 12-2-203)
4. Commercial importation and storage of alcoholic beverages- The license is issued to a business commercially importing and storing alcoholic beverages within the State. The licensee must sell alcoholic beverages, except for malt beverages, exclusively to the State Liquor Division. They cannot make deliveries or sell to

any retail outlet. The annual fee is \$250.00. (Department of Revenue, Rules and Regulations, Chapter 20, Section 11)

5. Chartered Transportation Services - Chartered transportation services traveling in Wyoming can be licensed to sell alcoholic beverages. The annual fee is \$250.00. (Wyoming § 12-2-202)

Town, city and county governments issue retail licenses. The Liquor Division, for compliance with state statutes, reviews the applications. Local governments issue retail liquor licenses, limited retail liquor licenses, resort liquor licenses, retail malt beverage permits, restaurant liquor licenses and catering permits. Local governments, within the limits specified by state statute, set the fees for the licenses and permits. (Wyoming § 12-3-101 through § 12-4-702.)

The Liquor Division, at the time of sale, collects all excise taxes on wine and distilled spirits. Licensed beer wholesalers are responsible for collecting the excise tax on malt beverages. The Wyoming Department of Revenue's Rules and Regulations, Chapter 20, Section 9(c)(i) states each wholesaler must report not later than the 15<sup>th</sup> day of the month, the purchases by retailers for the previous month. The total tax due must be paid at the time the report is filed. Each microbrewery permit holder must report to the department by the 15<sup>th</sup> of each month the amount of beverage produced during the previous month. The tax is submitted with the report.

All breweries, microbreweries and out-of-state wholesalers making sales of malt beverages to Wyoming wholesalers must report to the Liquor Division the quantity sold to each wholesaler. This report is due on the 15<sup>th</sup> of the month following the month of sale.

### Enforcement

It is unlawful for any licensee to receive or possess any alcoholic or malt beverage upon which the state excise taxes have not been paid. Any person who violates this provision is guilty of a misdemeanor and subject to a fine of not more than \$500.00, imprisoned for not more than one year, or both. (Wyoming § 12-3-101(b-c))

No person, without authorization by the Commission or by law, may import or transport alcoholic liquor or malt beverages into Wyoming for sale, use or consumption when the state excise tax has not been paid. Violation of this provision is a misdemeanor. The liquor brought into the state illegally is forfeited and delivered to the Division. Individuals can enter the state with up to 3 liters of alcoholic liquor or 5 gallons of malt liquor for personal use without paying applicable state taxes. (Wyoming § 12-3-101(d-e))

Failure to file the above reports or make a tax payment, is a violation of the Department of Revenue's Rules and Regulation and of state statute. The division can commence proceedings to suspend or revoke the license of the offender. An administrative hearing is held before a hearing officer designated by the division. Counsel can represent each party, the division and the alleged offender, if they choose. Once both parties give all testimony, the hearing is closed and the hearing officer has 20 working days to prepare

proposed findings of fact and conclusions of law for submittal along with the entire record, to the director of the Department of Revenue. The Liquor Division then has 20 days to enter a decision. (Department of Revenue Rules and Regulations, Chapter 20, Section 12)

Wyoming § 12-2-306 states that if any retail licensees are 60 or more days delinquent in paying sales taxes, the Liquor Division cannot sell alcoholic beverages to the licensee or its operator until the Department of Revenue certifies that the licensee has paid all sales taxes due.

### Taxpayer Remedies

Any licensee aggrieved or adversely affected by a final decision of the division after a hearing is entitled to judicial review in the appropriate court pursuant to Wyoming § 16-3-114 and Wyoming § 12-7-201(d).

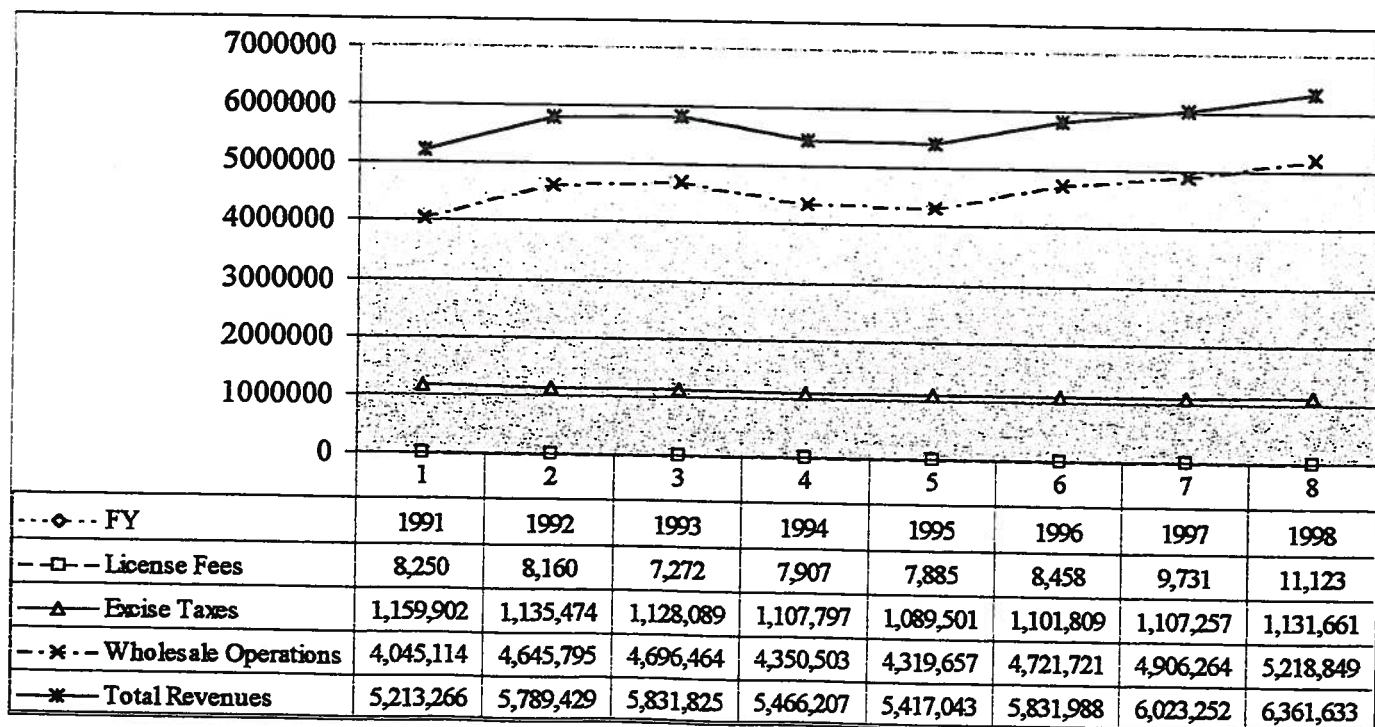
Any retail licensee, who is not allowed to purchase liquor from the division for failure to pay sales tax, can appeal the decision to the state Board of Equalization.

### Collections and Distributions

#### Tax and License Collections and Profits from the Wholesale Operation

During the past six fiscal years, the Liquor Commission and the Liquor Division of the Wyoming Department of Revenue has generated the following funds.

**TABLE 7F**



The wholesale operation of the Liquor Division is treated as an enterprise fund, which in governmental accounting terminology, means the accounting procedures used are similar to those used in private industry. The profits shown are after freight, sales and return, cost of goods sold and operating expenses have been deducted from gross sales.

The dollar amount of excise taxes collected on all liquor sales indicates there has not been growth in Wyoming's liquor industry. This is due to Wyoming's limited population growth and social and law enforcement education programs. The growth in profits from the wholesale operation is due to the increase in the price of the product from the manufacturer. Profits increased by approximately \$400,000.00 between 1995 and 1996. The growth in licensing fees is due to an increase in the representative license fee from \$10.00 to \$25.00 and the sales of licenses not usually sold such as the chartered transportation service fees.

Table 7G compares Wyoming to surrounding states for revenues per capita generated from state liquor excise tax collections and liquor store profits.

**Table 7G            How Wyoming Compares to Surrounding State  
FY 1995**

**Store Revenues and Tax Revenue per Capita**

	Population	Tax Revenue	Liquor Wholesale /Retail	Total	Per Capita
Wyoming	480,000	1,089,501	4,319,657	5,409,158	11.27
Colorado *	3,747,000	23,652,000		23,652,000	6.31
Nebraska*	1,637,000	15,885,000		15,885,000	9.70
South Dakota*	729,000	9,682,000		9,682,000	13.28
Montana **	870,000	14,842,000	3,843,000	18,685,000	21.48
Idaho	1,163,000	4,897,000	10,537,000	15,434,000	13.27
Utah **	1,951,000	18,002,000	20,011,000	38,013,000	19.48
* Non-Controlled States					
**Utah Controls wholesale operations and operates state liquor stores, Montana controls wholesale operations and limited retail.					

Wyoming collected the lowest amount of revenue per capita of the controlled surrounding states. Montana collects the most per capita, not because of its liquor store revenues, but because of its excise tax collections. Two non-controlled states collect less revenue per capita than Wyoming, Colorado and Nebraska. Controlled states do generate more revenue per capita for state coffers than those with only state liquor excise tax.



Distribution

Wyoming § 12-2-302 provides that all license fees and excise taxes are to be dispersed to the state general fund and Wyoming § 9-4-204(o) states that profits from enterprise funds are to be deposited into the state general Fund.

**CORPORATION FRANCHISE TAX  
FACT SHEET**

Tax Administrator	Secretary of State, Corporation Division
<b>Tax Basis</b>	<p>Based on the capital, property and assets (total assets) of corporation in Wyoming. Total assets does not include the value of the corporate stock, net worth or net equity of the corporation. Total assets are taken for the company's balance sheet for the fiscal year most recently ended with 3 exemptions:</p> <p>Depreciable Assets – Use assessed value of property as shown on the annual assessment schedule per Wyoming Ad Valorem statutes depreciation is not deducted.</p> <p>Assets with no assessed value- Use the corporate balance sheet value less depreciation.</p> <p>Depletable Assets (i.e. coal, oil, trona) – Use the assessed value as shown on the Department of Revenue annual gross products tax return.</p> <p>Land – Use assessed value of property as shown on the annual assessment schedule per Wyoming Ad Valorem statutes.</p>
<b>Tax Rates</b>	<p>\$0 to \$50,000. Assets - \$25.00  \$50,001 to \$100,000. Assets - \$50.00  \$100,001 to \$500,000. Assets - \$100.00  \$500,001 to \$1,000,000. Assets - \$200.00  \$1,000,001 or more - \$200.00  Plus \$200.00 for each additional  \$1,000,000 or fraction thereof but in  no event more than \$50,000 per year</p>
<b>Collections- FY98</b>	<p>Corporate Tax – Domestic - \$1,573,261  Corporate Tax – Foreign - <u>1,801,009</u>  \$3,374,270</p> <p>Seventy-five percent of all revenue is paid by the largest 12 percent of corporations. Eighty-eight percent of all corporations pay \$25, \$50, or \$100 and combined they pay 25 percent of the total revenue from corporate license fees. All corporate franchise taxes are deposited to the State General Fund</p>

## **Insurance Premium Tax**

### **Statute Citations and Tax Basis**

The insurance premium tax is governed by Wyoming § 26-1-101 through 26-48-110.

An insurance premium tax is a tax paid by insurance companies to the State of Wyoming on premiums they charge for insurance written in Wyoming. The tax is applied to premiums for all lines of insurance .

### **Rates**

The rate by statute is .75 percent of the premium written in the state of Wyoming for both domestic and foreign domiciled insurance companies. The retaliatory premium tax statutes provide that foreign insurance companies pay the higher of the Wyoming rate (.75 percent) or their domestic state rate on business written in the State of Wyoming. Wyoming has one of the lowest premium tax rates in the US. Most foreign companies end up paying their domestic state rate on insurance premiums written in Wyoming. The average insurance premium tax rate for all fifty states is over 2 percent.

### **Credits**

There are two credits applied against the premium tax.

- 1) Guaranty Fund Credit – This is a fund established in Wyoming for individuals who cannot obtain health insurance through normal means. Though these individuals do pay premiums for the coverage, losses do exceed the premiums paid. Insurance companies who write health insurance in Wyoming are assessed these losses according to their proportionate share of health insurance premiums written in Wyoming. They then receive a credit against the insurance premium tax .
- 2) Wyoming Life Insurance Guarantee Fund (WHIP) Credit-This is the fund established in Wyoming to make payments to insureds in event a company providing life, health and annuities insurance becomes insolvent. Insurance companies who write life, health and annuities insurance in Wyoming are assessed these payments according to their proportionate share of insurance premiums written. They then receive a credit against the insurance premium tax due to the State of Wyoming.

### **Distribution**

The taxes collected are distributed to the State General Fund. In FY 1998, approximately \$9.8 million were collected. Insurance companies writing business in Wyoming are also assessed fees to fund the operations of the Wyoming Insurance Department.

## **Current Problem**

Insurance companies domiciled in Illinois wrote insurance premiums in the amount of \$176,212,205. They paid the Illinois rate of 2 percent instead of the Wyoming .75 percent rate. In 1997, the Illinois insurance premium tax rates were overturned by the Illinois Supreme Court due to the unconstitutionality of their foreign premium tax. Illinois then adopted an insurance tax rate of .50 percent for all insurance companies. This meant the insurance companies from Illinois would pay the Wyoming premium tax of .75 percent on business written in Wyoming. This resulted in a revenue loss of \$2.3 million to the state of Wyoming.

**Suggested Solution** – The Wyoming Insurance Department suggests increasing Wyoming's rate to 1 percent or 1.25 percent. One percent would mean a loss of \$280,575 rather than \$2.3 Million. One and a quarter percent would increase revenues by \$492,627.00.



## **WYOMING ESTATE TAX**

### **Statute Citation and Tax Basis**

The Wyoming Estate Tax is governed by Wyoming § 39-19-101/111. The amount of revenue that Wyoming receives from this tax is dependent upon United State Estate laws. Federal gross estate means the gross estate of any decedent and is determined under the laws of the United States. The Wyoming gross estate means the value of the Federal gross estate of a decedent, excluding the value of real or tangible personal property which has an actual situs outside Wyoming at the time of death of the decedent, and excluding the value of intangible personal property owned by a decedent not domiciled in Wyoming.

### **Tax Basis and Rate**

The tax is imposed on the transfer of property constituting the Wyoming gross estate of every decedent. The basis of the tax is the maximum state death tax credit allowed to a Wyoming estate as a credit against Federal estate taxes under the laws of the United States for estate, inheritance, legacy and succession taxes. If property to be taxed is located in more than one state, Wyoming receives the ratio that the Wyoming gross estate bears to Federal gross estate. For example, if Wyoming is the only state in which the decedent has property, Wyoming will receive as the estate tax the maximum state death tax credit allowed as a credit on the Federal return. If one-third of the property is located in Wyoming, two-thirds of the property in other states, Wyoming will receive one-third of the minimum state death tax credit allowed as a credit on the Federal return.

### **Administration**

The personal representative of the estate, must file with the Wyoming Department of Revenue a copy of the Federal estate tax return (Form 706). At the time the form is filed, the tax due must be remitted. The Department of Revenue also requests that in addition to the Federal form, copies of the will and the death certificate be attached. Appraisals of Wyoming property and mineral interests should also be included.

If no Federal estate tax return is filed, the State of Wyoming must receive evidence that no tax is due. *The Application for No Tax Due Certificate* must be filed with the State along with a filing fee of \$10.00.

### **Enforcement**

If after a tax payment is made, the department determines that an additional tax is due, it will assess and collect the additional tax due. If the department cannot collect the additional tax, the state attorney general can bring an action in the name of the state to collect the tax liability.

## **Taxpayer Remedies**

A decision on the Wyoming Estate tax by the Department of Revenue can be appealed to the Wyoming State Board of Equalization. A decision made by the Board of Equalization can be appealed to the county district court where the property is located.

If the Department of Revenue determines that an overpayment of the estate tax has been made, full refund of the overpayment will be made to the taxpayer.

## **Tax Collections and Distributions**

### **Tax Collections**

<b>Fiscal Year</b>	<b>Collections</b>
1989	1,704,236.21
1990	2,202,118.61
1991	2,295,987.47
1992	3,067,724.17
1993	3,734,275.67
1994	26,038,910.15
1995	2,788,867.16
1996	4,559,572.00
1997	3,998,078.78
1998	6,464,710.66

### **Distributions**

One hundred percent of the monies collected from the estate tax is distributed the state general fund.