



THE STATE

OF WYOMING

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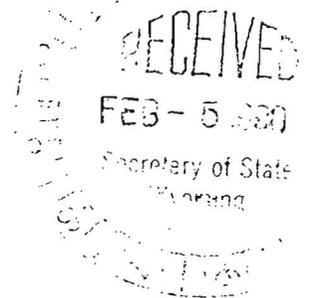
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February 5, 1990

The Honorable Kathy Karpan
Secretary of State
Capitol Building
Cheyenne, Wyoming 82002



Re: W.S.39-6-412(e), Local Imposition of Sales and Use
Tax or Lodging Tax

Dear Kathy:

Some time ago you wrote asking clarification of two parts of W.S. 39-6-412(e). The first question was whether either kind of tax could be submitted initially at a primary election. As you know, the statute states:

"The proposition may be submitted at any general election or at a special election called for that purpose."

The legislature is presumed to have chosen the statutory language carefully, and because only general and special elections are named, it may have intended to limit these tax approval elections to those two situations.

However, the language is permissive rather than mandatory, and a special election could be called for this purpose and set for the same date as the primary election. This appears permissible from the statutory language, would reduced the cost of the election, and would increase the number of voters otherwise present at the polls who could then vote on the tax question as well.

Thus the statutory language can be interpreted as meaning what it says without also prohibiting the setting of special elections on primary election day.

The second question concerned reapproval of the same excise questions when initial approval occurred before 1 July 1989. After approval at the 1990 general election, must they be presented to the voters again in 1992 or 1994?

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The language of W.S. 39-6-412(e) which stated these taxes must be reapproved "at each subsequent general election" has been changed to state they must be reapproved at "subsequent general elections as provided in this subsection [e]." This suggests that reapproval is required less often than at each general election, because "each" was deleted. Its repeal also means that no reapprovals are required at each general election unless specifically required by language remaining in the statute. The subsection goes on to confuse the issue, but I interpret it as follows:

1. Unless otherwise stated on the ballot, approvals and reapprovals of these taxes are valid for four years now.
2. For counties initially imposing a sales/use tax, approval is valid for only two years if so stated on the ballot in accordance with the decision of the county commissioners, otherwise it is valid for what is now the usual four year period.

For counties approving existing sales/use taxes at the 1990 general election, "the same proposition shall be submitted at subsequent general elections as provided in this subsection." W.S. 39-6-412(e). The subsection then requires reapproval every four years or at every other general election in all cases but one. This was set out in number 2 above. It does not apply for reapprovals of taxes passed before 1 July 1989.

Therefore, I conclude future reapprovals in all other cases are required only every four years.

Sincerely,



Rowena L. Heckert
Senior Assistant Attorney General

RLH:bkm