

**LARAMIE COUNTY CLERK
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM PROCESSING FORM**

1. DATE OF PROPOSED ACTION: May 2, 2017

2. AGENDA ITEM: <input type="checkbox"/> Appointments <input type="checkbox"/> Bids/Purchases <input type="checkbox"/> Claims
<input type="checkbox"/> Contracts/agreements/leases <input type="checkbox"/> Grants <input type="checkbox"/> Land Use: Variances/Board App/Plats
<input type="checkbox"/> Proclamations <input type="checkbox"/> Public Hearings/Rules & Reg's <input type="checkbox"/> Reports & Public Petitions
<input type="checkbox"/> Resolutions Other

3. DEPARTMENT: County Clerk

APPLICANT:

AGENT: Debra K. Lee

4. DESCRIPTION: Consideration of a resolution suspending a restaurant liquor license.

Amount \$ From To

5. DOCUMENTATION: Originals

<u>Commissioner</u>	<u>Clerks Use Only:</u>	<u>Signatures</u>
Ash	_____	County Attorney
Holmes	_____	Deputy Attorney
Thompson	_____	
Heath	_____	
Kailey	_____	Grants Manager
Action	_____	Outside Agency
Postponed	_____	

RESOLUTION SUSPENDING A RESTAURANT LIQUOR LICENSE PURSUANT TO W. S. 12-7-103

WHEREAS, the Laramie County Clerk's office was notified by the Wyoming Liquor Division regarding the delinquency of sales tax;

WHEREAS, the Laramie County Clerk's office notified Wyoming Auto Racing Club by certified mail of the delinquency of sales tax and the possibility of suspending their license if not resolved;

WHEREAS, public notice of the public hearing regarding the suspension was published in the WYOMING TRIBUNE/EAGLE, Tuesday, April 12, 2017;

WHEREAS, a public hearing was held before the Laramie County Board of Commissioners at their regular meeting April 18, 2017;

NOW THEREFORE BE IT RESOLVED that Laramie County has suspended the restaurant liquor license for Wyoming Auto Racing Club, located at 4820 South Greeley Highway until compliant with W.S. 12-7-103.

PRESENTED, READ, AND ADOPTED THIS 18TH day of April 2017.

Troy Thompson, Chair, Laramie County Commissioners

ATTEST

Debra K. Lee

Laramie County Clerk



approved to form

RECEIVED AND PAID AS
TODAY'S FILE
LARAMIE COUNTY ATTORNEY



6601 Campstool Road, Cheyenne, Wyoming 82002

MATTHEW H. MEAD
Governor
DANIEL W. NOBLE
Director
GREG COOK
Administrator
Phone (307) 777-7131
Fax (307) 777-6255
Website: <http://eliquor.wyoming.gov>

October 11, 2016

LARAMIE COUNTY CLERK
PO BOX 608
CHEYENNE WY 82001

RE: Sales Tax Delinquency Notification of WYOMING AUTO RACING CLUB D/B/A BIG COUNTRY SPEEDWAY, has been on Sales Tax Hold since October 11, 2016.

Pursuant to W.S. 12-2-306, this Division has received certification of sales tax delinquency for a liquor licensee in your jurisdiction, specifically:

WYOMING AUTO RACING CLUB D/B/A BIG COUNTRY SPEEDWAY

Wyoming statute 12-7-103 allows the local licensing authority to suspend any license under Title 12 if the licensee fails to pay sales tax and the Division has ceased sales of alcoholic liquor to the licensee pursuant to W.S. 12-2-306. The licensee may appeal license suspension to the District Court in the manner specified under W.S. 12-4-104(i) and the appeal proceedings shall be in accordance with the Wyoming Rules of Appellate Procedure. The suspension shall remain in effect pending a decision by the Appellate Court.

Wyoming Statute W.S. 12-4-601(b) precludes transfer of any licensee under this certification.

The licensing authority will be notified upon resolution or release of the certification.

Sincerely,

Arlis Bauer
WY Liquor Division
(307) 777-6189

Mark T. Voss **Bern Haggerty**
County Attorney Deputy County Attorney

LARAMIE COUNTY ATTORNEY'S OFFICE
310 West 19th Street, Suite 320
Cheyenne, WY 82001
Telephone (307) 633-4370 Fax (307) 633-4329



February 15, 2017

Sent via U. S. First Class Mail

Tom Montoya
Department of Revenue
Liquor Division
6601 Campstool Road
Cheyenne, WY 82002

Re: Notice of Delinquency in Sales Tax regard to Liquor License holders

Dear Sir,

As we discussed on the phone the other day, our Clerk's office has received letters from your Division indicating that at least two businesses in the County holding liquor licenses are in arrears for their payment of sales tax (see enclosed). This letter requests some further correspondence from your Division, confirming the 'cessation' of sales.

Within the next month, our County Clerk traditionally sends out the "renewal packets" for liquor licenses in Laramie County. We intend to inform individuals holding liquor licenses for which we receive notice of sales tax arrearage that the suspension of their license may be under consideration as a result.

As you noted, and as the letter from the Division correctly states, the conditions precedent for a suspension of a license by the local licensing authority are twofold: First, there must be delinquency in the payment of sales tax and second, that "the Division has ceased sales of alcoholic liquor to the licensee."

Unfortunately, the letter sent advising the Clerk of the delinquency in sales tax payments does *not* state that the Division has "ceased sales of alcoholic liquor" to the licensee.

You had informed me that upon receipt of notice of the delinquency in sales tax, your Division places a "hold" on the sale of "spirits and wine" to the licensee. However, the licensee would still be able to acquire malt beverage from a local distributor.

In order for Laramie County to proceed with any suspension of the liquor license for sales tax delinquency, we would request written notice, or advisement, from your Division that the "hold" placed on spirits and wine constitutes the 'cessation' of sales of alcoholic liquor to the licensee, as described in W.S. § 12-7-103. With both the notice of the delinquency and this further confirmation in hand, the County can then determine whether to proceed in regard to potential suspension of the license(s).

If you have any questions in regard to this correspondence please feel free to contact either the Laramie County Clerk's office or our office at the above number.

Sincerely,



Mark Voss

Laramie County Attorney

MTV:jah

Enclosures

cc: Laramie County Clerk, file



LARAMIE COUNTY CLERK

Debra K. Lee

March 30, 2017

VIA CERTIFIED MAIL, RETURN RECEIPT

Wyoming Auto Racing Club
PO Box 15623
Cheyenne, WY 82003

Re: Suspension of Liquor License #4450 issued to Wyoming Auto Racing Club

To Whom It May Concern:

As you may be aware, the Laramie County Clerk's office, which is the licensing authority responsible for the issuance of your liquor license, has received notice from the State Department of Revenue that you are in arrears for sales tax payments. The failure to pay sales tax as required may result in the suspension of your existing liquor license.

Wyoming statute W.S. § 12-7-103 states:

"A local licensing authority may suspend any license issued under this title if the licensee fails to pay sales taxes and the division has ceased sales of alcoholic liquor to the licensee pursuant to W.S. 12-2-306. The licensee may appeal license suspension to the district court in the manner specified under W.S. 12-4-104(f) and the appeal proceedings shall be in accordance with the Wyoming Rules of Appellate Procedure. The suspension shall remain in effect pending a decision by the appellate court."

The County has also confirmed with the Department of Revenue's Liquor Division that pursuant to the sales tax arrearage, they have placed a hold on any sale of spirits and wine to your club. We are aware that you are still able to purchase malt beverages from a distributor; however, the action of the Department of Revenue, Liquor Division satisfies the requirement of the above-noted statute that the division has "ceased sales" of alcoholic liquor to you. We would further note that the sale of malt beverage requires a current and active liquor license.

Due to the arrearage in sales tax and the cessation of sales by the division indicated above, the Laramie County Clerk advises you that your liquor license is subject to suspension. The suspension will be considered and determined at a public meeting before the Laramie County Board of Commissioners on April 18, 2017, at 3:30 p.m. at the Laramie County Courthouse, Commission Board Room.

TEL (307) 633-4264 LARAMIE COUNTY GOVERNMENTAL COMPLEX
FAX (307) 633-4240 309 W 20th St, Cheyenne, WY 82001
office@laramiecountyclerk.com PO Box 608, Cheyenne, WY 82003-0608

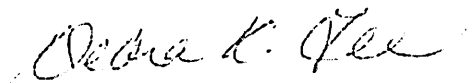
Suspension of Liquor License #4450 issued to Wyoming Auto Racing Club
March 30, 2017
Page 2

In the event you become current with your sales tax payments, the process of suspension can be halted. Should this be the case, please advise the Laramie County Clerk's office by April 11, 2017, and provide any documentation available from the Department of Revenue indicating the clearance of the arrearages.

Should you have any questions about this pending suspension, please feel free to contact the office of the Laramie County Clerk or the Laramie County Attorney.

It is my hope that this matter may be resolved.

Regards,


Debra K. Lee

c: Mark Voss, Laramie County Attorney

IPC # 2922
4-17-17

Printed by: klamb
1-2010519-904-099 BIG COUNTRY SPEEDWAY
[Barcode]



State of Wyoming
DEPARTMENT OF REVENUE

MATTHEW H. MEAD, Governor
DANIEL W. NOBLE, Director

122 West 25th Street, 2-West, Cheyenne, Wyoming 82002-0110
Telephone: (307) 777-7961 • Web: <http://revenue.wyo.gov> • E-mail: dor@wyo.gov

Administrative Fee (307)777-7723 • Property Tax Division Fee (307)777-7327 • Excise Division Fee (307)777-7423 • Mineral Division Fee (307)777-7819 • Liquor Division Fee (307)777-6233

**Payment Plan Agreement for Delinquent
Sales/Use Tax Liability**

THIS AGREEMENT is entered into by the State of Wyoming, Department of Revenue, Excise Tax Division (hereinafter "Agency") and Wyoming Auto Racing Club, DBA Big Country Speedway sales/use tax license number, 2010519 A, (hereinafter "Obligor").

WHEREAS, W.S. 39-11-102 authorizes the Agency to enter into payment plan agreements;

WHEREAS, Obligor admits liability to the Agency in the amount of **\$2,872.25** for delinquent sales/use taxes, penalties, fees, and interest as of the date of this Agreement;

WHEREAS, Obligor represents that, because of its financial condition, a lump sum payment of its outstanding liability to the Agency would cause it severe inconvenience;

WHEREAS, the conditions for entering into a payment plan agreement as provided in W.S. 39-11-102 are satisfied;

WHEREAS, Obligor and the Agency desire to enter into a written agreement which sets forth the duties and rights of both parties regarding a payment plan agreement;

NOW THEREFORE, the parties hereby mutually covenant and agree as follows:

1. OBLIGOR'S DUTIES.

A. Payments. Obligor shall pay the Agency **\$2,326.34** in delinquent sales and/or use taxes, plus interest thereon at the statutory rate as provided in W.S. 39-15-108 and 39-16-108 (see paragraph 1.C. of this Agreement), and **\$453.82** in late payment penalties at the statutory rate of **10%**, and late filing penalties as provided in W.S. 39-15-108 and 39-16-108. This amount shall be payable in equal consecutive monthly installments of **\$100.00** per month for **31** months, with a final or "balloon" payment equal to the then outstanding balance due and payable on **December 31, 2019**. The monthly installments shall be due on the **Last of each month, beginning the 31st of May, 2017**.

12104100017156011.164300075610001



Obligor may make additional payments at their option. Any additional payments received by the Department shall be applied: first to interest, then to any unpaid balance due under the agreement. Obligor agrees that even if additional payments are made, Obligor is required under terms of this agreement to make the next installment payment due in accordance with this subsection.

B. Place of Payments. All payments shall be mailed to the State of Wyoming, Department of Revenue, Attn: Excise Tax Division, Payment Plan, 122 West 25th Street, Cheyenne, WY 82002-0110.

C. Calculation of Interest. W.S. 39-15-108 and 39-16-108 provide for interest to be applied on delinquent sales/use tax at an annual rate equal to the average prime interest rate as determined by the state treasurer during the preceding fiscal year plus four percent (4%). The average prime interest rate is calculated by averaging the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States. The interest rate on delinquent taxes shall be adjusted on January 1 of each year following the year in which the taxes first became delinquent. In no instance shall the delinquent tax rate be greater than eighteen percent (18%) from any sale made on or after July 1, 1994. The interest rate on any delinquent tax from any sale made before July 1, 1994, shall be one percent (1%) per month from the date the return was due until paid.

D. Applicability of Payment Plan. Obligor understands and agrees that this payment plan agreement applies only to delinquent sales/use tax liability, and that any accruing sales/use tax liability must be kept current.

2. LIENS. Notwithstanding the terms of this Agreement, Obligor specifically consents and agrees that the Agency in its sole discretion may exercise any and all statutory lien rights which it may possess with regards hereto.

3. DEFAULTS.

A. Defaults Defined. Each of the following events shall constitute an event of default under this agreement: (1) the receipt by the Agency of any installment more than forty-five (45) days after the due date established in paragraph I.A. of this Agreement; (2) the breach of any promise or covenant contained in this Agreement.

B. Acceleration of Maturity Upon Default. In the event of any default of this agreement, the remaining unpaid balance is due within ten (10) days of the date of default. The

10.04.2015 11:14:11 AM 1040207161000



Obligor shall immediately pay the outstanding balance owed at the date of default plus any accrued interest due on the account.

C. Confession of Judgment Upon Default. In the event of any default of this Agreement, Obligor authorizes any attorney at law to appear for the Obligor before any court of competent jurisdiction, whether or not said court is a court of record, within the State of Wyoming, and the Obligor hereby expressly waives notice, the issuance, and service of process, and authorizes any attorney to confess judgment against Obligor in favor of the Agency for the amount of the delinquent tax liability then remaining unpaid, including penalty, accrued interest, reasonable attorney fees, and other expenses, and to release all errors and waive all rights of benefits of appeal on behalf of Obligor and to consent to the immediate issuance of execution.

D. Waiver of Default. The Agency may waive any default without impairing its right to enforce subsequent defaults under this Agreement, this right being a continuing one.

4. GENERAL PROVISIONS.

A. Amendments. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.

B. Applicable Law. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming.

C. Entirety of Contract. This Agreement, consisting of four (4) pages, represents the entire and integrated contract between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

D. Notices. All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, or delivery in person.

E. Sovereign Immunity. The State of Wyoming and the Agency do not waive sovereign immunity by entering into this Agreement, and specifically retain immunity and all defenses available to them as sovereigns pursuant to W.S. 1-39-104(a) and all other state and federal law.

F. Waiver. The waiver of any breach of any term of this Agreement shall not be deemed a waiver of any prior or subsequent breach.



5. SIGNATURES. By signing this Agreement, the parties certify that they have read and understood it, that they agree to be bound by the terms of this Agreement, that they have the authority to sign it, and that they have received a signed and dated copy of the Agreement.

AGENCY

Kim E Lovett

Kim E. Lovett, Administrator, Excise Tax

4/20/17

Date

AGENCY

Sam S...

Field Representative/Collections & Enforcement

4-17-17

Date

OBLIGOR 1

Thomas Davis

Obligor (Name, Title, Address)
Thomas Davis, Vice President/Director
PO Box 15623
Cheyenne, WY 82003-0857

4-17-17

Date

OBLIGOR 2 (required for partnerships)

Obligor (Name, Title, Address)

Date

OBLIGOR 3 (if needed)

Obligor (Name, Title, Address)

Date

DAC
4-19-17

10.04.020017110111.104101017101000