

Part 6
Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act

59-12-601.1 Title.

This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act."

Enacted by Chapter 286, 2008 General Session

59-12-602 Definitions.

As used in this part:

- (1)
 - (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) "Airport facility" includes:
 - (i) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;
 - (ii) a control tower, including a radar system;
 - (iii) a public area of an airport; or
 - (iv) a terminal facility.
- (2) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.
- (3) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.
- (4) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.
- (5)
 - (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.
 - (b) "Restaurant" does not include:
 - (i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and
 - (ii) a theater that sells food items, but not a dinner theater.

Amended by Chapter 263, 2010 General Session

59-12-603 County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

- (1)
 - (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:
 - (i)

- (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and
 - (B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;
 - (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:
 - (A) alcoholic beverages;
 - (B) food and food ingredients; or
 - (C) prepared food; and
 - (iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).
- (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.
- (2)
- (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:
 - (i) financing tourism promotion; and
 - (ii) the development, operation, and maintenance of:
 - (A) an airport facility;
 - (B) a convention facility;
 - (C) a cultural facility;
 - (D) a recreation facility; or
 - (E) a tourist facility.
 - (b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:
 - (i) promote tourism in ski areas within the county by persons that do not reside within the state; and
 - (ii) combine the sale of:
 - (A) ski lift tickets; and
 - (B) accommodations and services described in Subsection 59-12-103(1)(i).
- (3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:
- (a) an airport facility;
 - (b) a convention facility;
 - (c) a cultural facility;
 - (d) a recreation facility; or
 - (e) a tourist facility.
- (4)

- (a) To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.
 - (b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).
 - (c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.
- (5) To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.
- (6)
- (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).
 - (b) The tax advisory board shall be composed of nine members appointed as follows:
 - (i) four members shall be appointed by the county legislative body of the county of the first class as follows:
 - (A) one member shall be a resident of the unincorporated area of the county;
 - (B) two members shall be residents of the incorporated area of the county; and
 - (C) one member shall be a resident of the unincorporated or incorporated area of the county; and
 - (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.
 - (c) Five members of the tax advisory board constitute a quorum.
 - (d) The county legislative body of the county of the first class shall determine:
 - (i) terms of the members of the tax advisory board;
 - (ii) procedures and requirements for removing a member of the tax advisory board;
 - (iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;
 - (iv) chairs or other officers of the tax advisory board;
 - (v) how meetings are to be called and the frequency of meetings; and
 - (vi) the compensation, if any, of members of the tax advisory board.
 - (e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).
- (7)
- (a)
 - (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:
 - (A) the same procedures used to administer, collect, and enforce the tax under:
 - (I) Part 1, Tax Collection; or
 - (II) Part 2, Local Sales and Use Tax Act; and
 - (B) Chapter 1, General Taxation Policies.
 - (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).

- (b) Except as provided in Subsection (7)(c):
 - (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and
 - (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).
- (c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.
- (8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:
 - (a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and
 - (b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
- (9)
 - (a) For purposes of this Subsection (9):
 - (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.
 - (ii) "Annexing area" means an area that is annexed into a county.
 - (b)
 - (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.
 - (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
 - (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
 - (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
 - (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
 - (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.
 - (c)
 - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.
 - (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.
 - (d)
 - (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and

- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
- (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
 - (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
 - (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
 - (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
 - (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.
- (e)
 - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.
 - (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Amended by Chapter 350, 2016 General Session

Amended by Chapter 364, 2016 General Session

59-12-605 Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-606 Certified service provider or model 2 seller reliance on commission certified software.

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
 - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
 - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
 - (i) provided by the commission; or
 - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

- (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
 - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-607 Purchaser relief from liability.

- (1)
- (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
 - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary;
 - (C) on a taxing jurisdiction; or
 - (D) in the taxability matrix the commission provides in accordance with the agreement; or
 - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary;
 - (C) on a taxing jurisdiction; or
 - (D) in the taxability matrix the commission provides in accordance with the agreement.
 - (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
 - (i) fraudulent;
 - (ii) intentional; or
 - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
 - (i) incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary; or
 - (C) on a taxing jurisdiction; or
 - (ii) an erroneous classification by the commission:
 - (A) in the taxability matrix the commission provides in accordance with the agreement; and
 - (B) with respect to a term:

- (I) in the library of definitions; and
- (II) that is:
 - (Aa) listed as taxable or exempt;
 - (Bb) included in or excluded from "sales price"; or
 - (Cc) included in or excluded from a definition; or
- (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
 - (i) incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary; or
 - (C) on a taxing jurisdiction; or
 - (ii) an erroneous classification by the commission:
 - (A) in the taxability matrix the commission provides in accordance with the agreement; and
 - (B) with respect to a term:
 - (I) in the library of definitions; and
 - (II) that is:
 - (Aa) listed as taxable or exempt;
 - (Bb) included in or excluded from "sales price"; or
 - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session