

1 **SALES AND USE TAX EXEMPTION -**
2 **CERTAIN PURCHASES OR LEASES BY A**
3 **MANUFACTURER**

4 2000 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Howard A. Stephenson**

7 AN ACT RELATING TO THE SALES AND USE TAX ACT; EXPANDING THE SALES AND
8 USE TAX EXEMPTION FOR CERTAIN PURCHASES OR LEASES BY A
9 MANUFACTURER; MODIFYING THE REQUIREMENTS FOR THE UTAH STATE TAX
10 COMMISSION TO STUDY THE SALES AND USE TAX EXEMPTION; AND MAKING
11 TECHNICAL CHANGES.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **59-12-104**, as last amended by Chapters 63, 155, 195, 306, 313 and 362, Laws of Utah
15 1999

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **59-12-104** is amended to read:

18 **59-12-104. Exemptions.**

19 The following sales and uses are exempt from the taxes imposed by this chapter:

20 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
21 under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

22 (2) sales to the state, its institutions, and its political subdivisions; however, this exemption
23 does not apply to sales of construction materials except:

24 (a) construction materials purchased by or on behalf of institutions of the public education
25 system as defined in Utah Constitution Article X, Section 2, provided the construction materials
26 are clearly identified and segregated and installed or converted to real property which is owned by
27 institutions of the public education system; and

28 (b) construction materials purchased by the state, its institutions, or its political
29 subdivisions which are installed or converted to real property by employees of the state, its
30 institutions, or its political subdivisions;

31 (3) sales of food, beverage, and dairy products from vending machines in which the
32 proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports
33 an amount equal to 150% of the cost of items as goods consumed;

34 (4) sales of food, beverage, dairy products, similar confections, and related services to
35 commercial airline carriers for in-flight consumption;

36 (5) sales of parts and equipment installed in aircraft operated by common carriers in
37 interstate or foreign commerce;

38 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
39 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
40 exhibitor, distributor, or commercial television or radio broadcaster;

41 (7) sales of cleaning or washing of tangible personal property by a coin-operated laundry
42 or dry cleaning machine;

43 (8) (a) except as provided in Subsection (8)(b), sales made to or by religious or charitable
44 institutions in the conduct of their regular religious or charitable functions and activities, if the
45 requirements of Section 59-12-104.1 are fulfilled;

46 (b) the exemption provided for in Subsection (8)(a) does not apply to the following sales,
47 uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an
48 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
49 Code:

50 (i) retail sales of Olympic merchandise;

51 (ii) admissions or user fees described in Subsection 59-12-103(1)(f);

52 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
53 except for accommodations and services:

54 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
55 of 2002;

56 (B) exclusively used by:

57 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
58 Olympic Winter Games of 2002; or

59 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
60 Games of 2002; and

61 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
62 does not receive reimbursement; or

63 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
64 rental of a vehicle:

65 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
66 of 2002;

67 (B) exclusively used by:

68 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
69 Olympic Winter Games of 2002; or

70 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
71 Games of 2002; and

72 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
73 does not receive reimbursement;

74 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of this
75 state which are made to bona fide nonresidents of this state and are not afterwards registered or
76 used in this state except as necessary to transport them to the borders of this state;

77 (10) sales of medicine;

78 (11) sales or use of property, materials, or services used in the construction of or
79 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

80 (12) sales of meals served by:

81 (a) churches, charitable institutions, and institutions of higher education, if the meals are
82 not available to the general public; and

83 (b) inpatient meals provided at medical or nursing facilities;

84 (13) isolated or occasional sales by persons not regularly engaged in business, except the
85 sale of vehicles or vessels required to be titled or registered under the laws of this state in which
86 case the tax is based upon:

87 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

88 or

89 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair

90 market value of the vehicle or vessel being sold as determined by the commission;

91 (14) (a) the following purchases or leases by a manufacturer [~~on or after July 1, 1995~~]:

92 (i) machinery [and] or equipment purchased or leased on or after July 1, 1995, if the
93 machinery or equipment:

94 (A) is used in the manufacturing process;

95 (B) [~~having~~] has an economic life of three or more years; and

96 (C) is used:

97 (I) to manufacture an item sold as tangible personal property; and

98 (II) in new or expanding operations in a manufacturing facility in the state; [~~and~~]

99 (ii) [~~subject to the provisions of Subsection (14)(b),~~] normal operating replacements

100 purchased or leased on or after July 1, 1998, that:

101 (A) have an economic life of three or more years;

102 (B) are used in the manufacturing process in a manufacturing facility in the state;

103 (C) are used to replace or adapt an existing machine to extend the normal estimated useful
104 life of the machine; and

105 (D) do not include:

106 (I) repairs [and]; or

107 (II) maintenance; or

108 (iii) subject to Subsection (14)(b), purchases or leases:

109 (A) used in the manufacturing process;

110 (B) having an economic life of less than three years; and

111 (C) of:

112 (I) machinery;

113 (II) equipment;

114 (III) normal operating replacements;

115 (IV) repairs; or

116 (V) maintenance;

117 (b) [~~the rates for the exemption under~~] the following percentages of a sale or lease

118 described in Subsection (14)(a)(ii) (iii) are [as follows] exempt:

119 (i) beginning on July 1, [~~1996~~] 2001, through June 30, [~~1997~~] 2002, 30% of the sale or

120 lease described in Subsection (14)(a)(ii) (iii) is exempt;

121 (ii) beginning on July 1, [~~1997~~] 2002, through June 30, [~~1998~~] 2003, 60% of the sale or
122 lease described in Subsection (14)(a)[~~(ii)~~] (iii) is exempt; and

123 (iii) beginning on July 1, [~~1998~~] 2004, 100% of the sale or lease described in Subsection
124 (14)(a)[~~(ii)~~] (iii) is exempt;

125 (c) for purposes of this Subsection (14), in accordance with Title 63, Chapter 46a, Utah
126 Administrative Rulemaking Act, the commission shall by rule define the terms "new or expanding
127 operations" and "establishment"; and

128 (d) on or before October 1, [~~1991~~] 2004, and every five years after October 1, [~~1991~~] 2004,
129 the commission shall:

130 (i) review the exemptions described in Subsection (14)(a) and make recommendations to
131 the Revenue and Taxation Interim Committee concerning whether the exemptions should be
132 continued, modified, or repealed; and

133 (ii) include in its report:

134 (A) the cost of the exemptions;

135 (B) the purpose and effectiveness of the exemptions; and

136 (C) the benefits of the exemptions to the state;

137 (15) sales of tooling, special tooling, support equipment, and special test equipment used
138 or consumed exclusively in the performance of any aerospace or electronics industry contract with
139 the United States government or any subcontract under that contract, but only if, under the terms
140 of that contract or subcontract, title to the tooling and equipment is vested in the United States
141 government as evidenced by a government identification tag placed on the tooling and equipment
142 or by listing on a government-approved property record if a tag is impractical;

143 (16) intrastate movements of:

144 (a) freight by common carriers; and

145 (b) passengers:

146 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
147 Classification Manual of the federal Executive Office of the President, Office of Management and
148 Budget; or

149 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
150 Industrial Classification Manual of the federal Executive Office of the President, Office of
151 Management and Budget, if the transportation originates and terminates within a county of the

152 first, second, or third class;

153 (17) sales of newspapers or newspaper subscriptions;

154 (18) tangible personal property, other than money, traded in as full or part payment of the
155 purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by
156 a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

157 (a) the bill of sale or other written evidence of value of the vehicle being sold and the
158 vehicle being traded in; or

159 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
160 market value of the vehicle being sold and the vehicle being traded in, as determined by the
161 commission;

162 (19) sprays and insecticides used to control insects, diseases, and weeds for commercial
163 production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and
164 insecticides used in the processing of the products;

165 (20) (a) sales of tangible personal property used or consumed primarily and directly in
166 farming operations, including sales of irrigation equipment and supplies used for agricultural
167 production purposes, whether or not they become part of real estate and whether or not installed
168 by farmer, contractor, or subcontractor, but not sales of:

169 (i) machinery, equipment, materials, and supplies used in a manner that is incidental to
170 farming, such as hand tools with a unit purchase price not in excess of \$250, and maintenance and
171 janitorial equipment and supplies;

172 (ii) tangible personal property used in any activities other than farming, such as office
173 equipment and supplies, equipment and supplies used in sales or distribution of farm products, in
174 research, or in transportation; or

175 (iii) any vehicle required to be registered by the laws of this state, without regard to the use
176 to which the vehicle is put;

177 (b) sales of hay;

178 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
179 other agricultural produce if sold by a producer during the harvest season;

180 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp
181 Program, 7 U.S.C. Sec. 2011 et seq.;

182 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

183 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler,
184 or retailer for use in packaging tangible personal property to be sold by that manufacturer,
185 processor, wholesaler, or retailer;

186 (24) property stored in the state for resale;

187 (25) property brought into the state by a nonresident for his or her own personal use or
188 enjoyment while within the state, except property purchased for use in Utah by a nonresident living
189 and working in Utah at the time of purchase;

190 (26) property purchased for resale in this state, in the regular course of business, either in
191 its original form or as an ingredient or component part of a manufactured or compounded product;

192 (27) property upon which a sales or use tax was paid to some other state, or one of its
193 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
194 imposed by this part and Part 2, and no adjustment is allowed if the tax paid was greater than the
195 tax imposed by this part and Part 2;

196 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
197 for use in compounding a service taxable under the subsections;

198 (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the
199 special supplemental nutrition program for women, infants, and children established in 42 U.S.C.
200 Sec. 1786;

201 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
202 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
203 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual
204 of the federal Executive Office of the President, Office of Management and Budget;

205 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
206 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this
207 state and are not thereafter registered or used in this state except as necessary to transport them to
208 the borders of this state;

209 (32) sales of tangible personal property to persons within this state that is subsequently
210 shipped outside the state and incorporated pursuant to contract into and becomes a part of real
211 property located outside of this state, except to the extent that the other state or political entity
212 imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the
213 other state or political entity allows a credit for taxes imposed by this chapter;

214 (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where
215 a sales or use tax is not imposed, even if the title is passed in Utah;

216 (34) amounts paid for the purchase of telephone service for purposes of providing
217 telephone service;

218 (35) fares charged to persons transported directly by a public transit district created under
219 the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

220 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

221 (37) (a) 45% of the sales price of any new manufactured home; and

222 (b) 100% of the sales price of any used manufactured home;

223 (38) sales relating to schools and fundraising sales;

224 (39) sales or rentals of home medical equipment and supplies;

225 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
226 Section 72-11-102; and

227 (b) the commission shall by rule determine the method for calculating sales exempt under
228 Subsection (40)(a) that are not separately metered and accounted for in utility billings;

229 (41) sales to a ski resort of:

230 (a) snowmaking equipment;

231 (b) ski slope grooming equipment; and

232 (c) passenger ropeways as defined in Section 72-11-102;

233 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

234 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
235 recreation a coin-operated amusement device as defined in Section 59-12-102;

236 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
237 machine;

238 (45) sales by the state or a political subdivision of the state, except state institutions of
239 higher education as defined in Section 53B-3-102, of:

240 (a) photocopies; or

241 (b) other copies of records held or maintained by the state or a political subdivision of the
242 state; and

243 (46) (a) amounts paid:

244 (i) to a person providing intrastate transportation to an employer's employee to or from the

245 employee's primary place of employment;

246 (ii) by an:

247 (A) employee; or

248 (B) employer; and

249 (iii) pursuant to a written contract between:

250 (A) the employer; and

251 (B) (I) the employee; or

252 (II) a person providing transportation to the employer's employee; and

253 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

254 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an

255 employee's primary place of employment;

256 (47) amounts paid for admission to an athletic event at an institution of higher education

257 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.

258 1681 et seq.;

259 (48) sales of telephone service charged to a prepaid telephone calling card;

260 (49) (a) sales of hearing aids; and

261 (b) sales of hearing aid accessories; and

262 (50) (a) sales made to or by:

263 (i) an area agency on aging; or

264 (ii) a senior citizen center owned by a county, city, or town; or

265 (b) sales made by a senior citizen center that contracts with an area agency on aging.

Legislative Review Note
as of 1-13-00 2:33 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel