

**SALES AND USE TAX HOLIDAY FOR
CERTAIN SALES OF CLOTHING**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Kory M. Holdaway

This act modifies the Sales and Use Tax Act to provide for a sales and use tax holiday for sales of certain items of clothing. This act defines terms and makes technical changes. The act takes effect on July 1, 2001.

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

AMENDS:

59-12-102 (Effective 07/01/01), as last amended by Chapter 253, Laws of Utah 2000

59-12-104, as last amended by Chapter 325, Laws of Utah 2000

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

Section 1. Section **59-12-102 (Effective 07/01/01)** is amended to read:

59-12-102 (Effective 07/01/01). Definitions.

As used in this chapter:

(1) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(2) "Area agency on aging" is as defined in Section 62A-3-101.

(3) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA);

(b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,

28 the holder of a certificate issued by the United States Interstate Commerce Commission.

29 (4) (a) "Clothing" means all human wearing apparel suitable for general use.

30 (b) "Clothing" includes:

31 (i) an apron for:

32 (A) household use; or

33 (B) shop use;

34 (ii) an athletic supporter;

35 (iii) a baby receiving blanket;

36 (iv) a bathing cap;

37 (v) a bathing suit;

38 (vi) a beach:

39 (A) cape; or

40 (B) coat;

41 (vii) (A) a belt; or

42 (B) suspenders;

43 (viii) boots;

44 (ix) (A) a coat; or

45 (B) a jacket;

46 (x) a costume;

47 (xi) a diaper, including a disposable diaper, for:

48 (A) a child; or

49 (B) an adult;

50 (xii) ear muffs;

51 (xiii) footlets;

52 (xiv) formal wear;

53 (xv) a garter;

54 (xvi) a garter belt;

55 (xvii) a girdle;

56 (xviii) (A) gloves for general use; or

57 (B) mittens for general use;

58 (xix) (A) a hat; or

- 59 (B) a cap;
60 (xx) hosiery;
61 (xxi) insoles for shoes;
62 (xxii) a lab coat;
63 (xxiii) a necktie;
64 (xxiv) overshoes;
65 (xxv) pantyhose;
66 (xxvi) rainwear;
67 (xxvii) rubber pants;
68 (xxviii) sandals;
69 (xxix) a scarf;
70 (xxx) shoes;
71 (xxxi) shoe laces;
72 (xxxii) slippers;
73 (xxxiii) sneakers;
74 (xxxiv) socks;
75 (xxxv) stockings;
76 (xxxvi) steel toed shoes;
77 (xxxvii) underwear;
78 (xxxviii) a uniform for:
79 (A) athletic use; or
80 (B) nonathletic use; or
81 (xxxix) wedding apparel.
82 (c) "Clothing" does not include:
83 (i) a belt buckle sold separately;
84 (ii) a costume mask sold separately;
85 (iii) an emblem sold separately;
86 (iv) a patch sold separately;
87 (v) sewing equipment or sewing supplies including:
88 (A) knitting needles;
89 (B) a pattern;

- 90 (C) a pin;
- 91 (D) scissors;
- 92 (E) a sewing machine;
- 93 (F) a sewing needle;
- 94 (G) a tape measure; or
- 95 (H) a thimble;
- 96 (vi) sewing materials that become part of clothing including:
- 97 (A) a button;
- 98 (B) fabric;
- 99 (C) lace;
- 100 (D) thread;
- 101 (E) yarn; or
- 102 (F) a zipper;
- 103 (vii) clothing accessories;
- 104 (viii) clothing equipment;
- 105 (ix) protective equipment;
- 106 (x) recreational equipment; or
- 107 (xi) sport equipment.

108 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
109 commission may make rules defining the following terms:

- 110 (i) "clothing accessories";
- 111 (ii) "clothing equipment";
- 112 (iii) "protective equipment";
- 113 (iv) "recreational equipment"; and
- 114 (v) "sport equipment."

115 [~~4~~] (5) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device"
116 means:

- 117 (i) a coin-operated amusement, skill, or ride device;
- 118 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and
- 119 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
- 120 arcade machine, and a mechanical or electronic skill game or ride.

121 (b) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" does
122 not mean a coin-operated amusement device possessing a coinage mechanism that:

123 (i) accepts and registers multiple denominations of coins; and

124 (ii) allows the vendor to collect the sales and use tax at the time an amusement device is
125 activated and operated by a person inserting coins into the device.

126 [~~5~~] (6) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
127 fuels that does not constitute industrial use under Subsection [~~13~~] (14) or residential use under
128 Subsection [~~21~~] (22).

129 [~~6~~] (7) (a) "Common carrier" means a person engaged in or transacting the business of
130 transporting passengers, freight, merchandise, or other property for hire within this state.

131 (b) (i) "Common carrier" does not include a person who, at the time the person is traveling
132 to or from that person's place of employment, transports a passenger to or from the passenger's
133 place of employment.

134 (ii) For purposes of Subsection [~~6~~] (7)(b)(i), in accordance with Title 63, Chapter 46a,
135 Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes
136 a person's place of employment.

137 [~~7~~] (8) "Component part" includes:

138 (a) poultry, dairy, and other livestock feed, and their components;

139 (b) baling ties and twine used in the baling of hay and straw;

140 (c) fuel used for providing temperature control of orchards and commercial greenhouses
141 doing a majority of their business in wholesale sales, and for providing power for off-highway type
142 farm machinery; and

143 (d) feed, seeds, and seedlings.

144 [~~8~~] (9) "Construction materials" means any tangible personal property that will be
145 converted into real property.

146 [~~9~~] (10) (a) "Fundraising sales" means sales:

147 (i) (A) made by a public or private elementary or secondary school; or

148 (B) made by a public or private elementary or secondary school student, grades
149 kindergarten through 12;

150 (ii) that are for the purpose of raising funds for the school to purchase equipment,
151 materials, or provide transportation; and

152 (iii) that are part of an officially sanctioned school activity.

153 (b) For purposes of Subsection [~~(9)~~] (10)(a)(iii), "officially sanctioned school activity"
154 means a school activity:

155 (i) that is conducted in accordance with a formal policy adopted by the school or school
156 district governing the authorization and supervision of fundraising activities;

157 (ii) that does not directly or indirectly compensate an individual teacher or other
158 educational personnel by direct payment, commissions, or payment in kind; and

159 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
160 by the school or school district.

161 [~~(10)~~] (11) (a) "Hearing aid" means:

162 (i) an instrument or device having an electronic component that is designed to:

163 (A) (I) improve impaired human hearing; or

164 (II) correct impaired human hearing; and

165 (B) (I) be worn in the human ear; or

166 (II) affixed behind the human ear;

167 (ii) an instrument or device that is surgically implanted into the cochlea; or

168 (iii) a telephone amplifying device.

169 (b) "Hearing aid" does not include:

170 (i) except as provided in Subsection [~~(10)~~] (11)(a)(i)(B) or [~~(10)~~] (11)(a)(ii), an instrument
171 or device having an electronic component that is designed to be worn on the body;

172 (ii) except as provided in Subsection [~~(10)~~] (11)(a)(iii), an assistive listening device or
173 system designed to be used by one individual, including:

174 (A) a personal amplifying system;

175 (B) a personal FM system;

176 (C) a television listening system; or

177 (D) a device or system similar to a device or system described in Subsections [~~(10)~~]

178 (11)(b)(ii)(A) through (C); or

179 (iii) an assistive listening device or system designed to be used by more than one
180 individual, including:

181 (A) a device or system installed in:

182 (I) an auditorium;

- 183 (II) a church;
- 184 (III) a conference room;
- 185 (IV) a synagogue; or
- 186 (V) a theater; or
- 187 (B) a device or system similar to a device or system described in Subsections [~~(10)~~]
- 188 ~~(11)~~(b)(iii)(A)(I) through (V).

189 [~~(H)~~] (12) (a) "Hearing aid accessory" means a hearing aid:

- 190 (i) component;
- 191 (ii) attachment; or
- 192 (iii) accessory.

193 (b) "Hearing aid accessory" includes:

- 194 (i) a hearing aid neck loop;
- 195 (ii) a hearing aid cord;
- 196 (iii) a hearing aid ear mold;
- 197 (iv) hearing aid tubing;
- 198 (v) a hearing aid ear hook; or
- 199 (vi) a hearing aid remote control.

200 (c) "Hearing aid accessory" does not include:

- 201 (i) a component, attachment, or accessory designed to be used only with an:
- 202 (A) instrument or device described in Subsection [~~(10)~~] (11)(b)(i); or
- 203 (B) assistive listening device or system described in Subsection [~~(10)~~] (11)(b)(ii) or (iii);

204 or

- 205 (ii) a hearing aid battery.

206 [~~(12)~~] (13) (a) "Home medical equipment and supplies" means equipment and supplies

207 that:

- 208 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
- 209 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or
- 210 injury;

- 211 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
- 212 purpose; and

- 213 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or

214 under the state plan for medical assistance under Title 19 of the federal Social Security Act.

215 (b) "Home medical equipment and supplies" does not include:

216 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
217 defined in Subsection [~~(12)~~] (13)(c), doctor, nurse, or other health care provider for use in their
218 professional practice;

219 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or

220 (iii) hearing aids or hearing aid accessories.

221 (c) For purposes of Subsection [~~(12)~~] (13)(b)(i), "health care facility" includes:

222 (i) a clinic;

223 (ii) a doctor's office; and

224 (iii) a health care facility as defined in Section 26-21-2.

225 [~~(13)~~] (14) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
226 other fuels in:

227 (a) mining or extraction of minerals;

228 (b) agricultural operations to produce an agricultural product up to the time of harvest or
229 placing the agricultural product into a storage facility, including:

230 (i) commercial greenhouses;

231 (ii) irrigation pumps;

232 (iii) farm machinery;

233 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
234 registered under Title 41, Chapter 1a, Part 2, Registration; and

235 (v) other farming activities; and

236 (c) manufacturing tangible personal property at an establishment described in SIC Codes
237 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office
238 of the President, Office of Management and Budget.

239 [~~(14)~~] (15) "Manufactured home" means any manufactured home or mobile home as
240 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.

241 [~~(15)~~] (16) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

242 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial
243 Classification Manual of the federal Executive Office of the President, Office of Management and
244 Budget; or

245 (b) a scrap recycler if:

246 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one
247 or more of the following items into prepared grades of processed materials for use in new products:

248 (A) iron;

249 (B) steel;

250 (C) nonferrous metal;

251 (D) paper;

252 (E) glass;

253 (F) plastic;

254 (G) textile; or

255 (H) rubber; and

256 (ii) the new products under Subsection [~~(15)~~] (16)(b)(i) would otherwise be made with
257 nonrecycled materials.

258 [~~(16)~~] (17) (a) "Medicine" means:

259 (i) insulin, syringes, and any medicine prescribed for the treatment of human ailments by
260 a person authorized to prescribe treatments and dispensed on prescription filled by a registered
261 pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;

262 (ii) any medicine dispensed to patients in a county or other licensed hospital if prescribed
263 for that patient and dispensed by a registered pharmacist or administered under the direction of a
264 physician; and

265 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the
266 direction of a physician or paramedic.

267 (b) "Medicine" does not include:

268 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or

269 (ii) any alcoholic beverage.

270 [~~(17)~~] (18) "Olympic merchandise" means tangible personal property bearing an Olympic
271 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
272 copyrighted or protected material, including:

273 (a) one or more of the following terms:

274 (i) "Olympic";

275 (ii) "Olympiad"; or

- 276 (iii) "Citius Altius Fortius";
- 277 (b) the symbol of the International Olympic Committee, consisting of five interlocking
- 278 rings;
- 279 (c) the emblem of the International Olympic Committee Corporation;
- 280 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
- 281 mark, symbol, terminology, trademark, or other copyrighted or protected material;
- 282 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by the
- 283 Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or
- 284 (f) the mascot of the Olympic Winter Games of 2002.
- 285 [~~(18)~~] (19) (a) "Other fuels" means products that burn independently to produce heat or
- 286 energy.
- 287 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal
- 288 property.
- 289 [~~(19)~~] (20) "Person" includes any individual, firm, partnership, joint venture, association,
- 290 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 291 municipality, district, or other local governmental entity of the state, or any group or combination
- 292 acting as a unit.
- 293 [~~(20)~~] (21) "Purchase price" means the amount paid or charged for tangible personal
- 294 property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash
- 295 discounts taken or any excise tax imposed on the purchase price by the federal government.
- 296 [~~(21)~~] (22) "Residential use" means the use in or around a home, apartment building,
- 297 sleeping quarters, and similar facilities or accommodations.
- 298 [~~(22)~~] (23) (a) "Retail sale" means any sale within the state of tangible personal property
- 299 or any other taxable transaction under Subsection 59-12-103(1), other than resale of such property,
- 300 item, or service by a retailer or wholesaler to a user or consumer.
- 301 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,
- 302 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or
- 303 more.
- 304 (c) "Retail sale" does not include, and no additional sales or use tax shall be assessed
- 305 against, those transactions where a purchaser of tangible personal property pays applicable sales
- 306 or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback

307 transaction by which title to such property is transferred by the purchaser-lessee to a lessor for
308 consideration, provided:

309 (i) the transaction is intended as a form of financing for the property to the
310 purchaser-lessee; and

311 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is required
312 to capitalize the subject property for financial reporting purposes, and account for the lease
313 payments as payments made under a financing arrangement.

314 [~~(23)~~] (24) (a) "Retailer" means any person engaged in a regularly organized retail business
315 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
316 who is selling to the user or consumer and not for resale.

317 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
318 engaged in the business of selling to users or consumers within the state.

319 (c) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other growers
320 or agricultural producers producing and doing business on their own premises, except those who
321 are regularly engaged in the business of buying or selling for a profit.

322 (d) For purposes of this chapter the commission may regard as retailers the following if
323 they determine it is necessary for the efficient administration of this chapter: salesmen,
324 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
325 employers under whom they operate or from whom they obtain the tangible personal property sold
326 by them, irrespective of whether they are making sales on their own behalf or on behalf of these
327 dealers, distributors, supervisors, or employers, except that:

328 (i) a printer's facility with which a retailer has contracted for printing shall not be
329 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

330 (ii) the ownership of property that is located at the premises of a printer's facility with
331 which the retailer has contracted for printing and that consists of the final printed product, property
332 that becomes a part of the final printed product, or copy from which the printed product is
333 produced, shall not result in the retailer being deemed to have or maintain an office, distribution
334 house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock
335 of goods, within this state.

336 [~~(24)~~] (25) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,
337 in any manner, of tangible personal property or any other taxable transaction under Subsection

338 59-12-103(1), for consideration. It includes:

339 (a) installment and credit sales;

340 (b) any closed transaction constituting a sale;

341 (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

342 (d) any transaction if the possession of property is transferred but the seller retains the title
343 as security for the payment of the price; and

344 (e) any transaction under which right to possession, operation, or use of any article of
345 tangible personal property is granted under a lease or contract and the transfer of possession would
346 be taxable if an outright sale were made.

347 [~~25~~] (26) (a) "Sales relating to schools" means sales by a public school district or public
348 or private elementary or secondary school, grades kindergarten through 12, that are directly related
349 to the school's or school district's educational functions or activities and include:

350 (i) the sale of textbooks, textbook fees, laboratory fees, laboratory supplies, and safety
351 equipment;

352 (ii) the sale of clothing that:

353 (A) a student is specifically required to wear as a condition of participation in a
354 school-related event or activity; and

355 (B) is not readily adaptable to general or continued usage to the extent that it takes the
356 place of ordinary clothing;

357 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into
358 a school district fund or school fund dedicated to school meals; and

359 (iv) transportation charges for official school activities.

360 (b) "Sales relating to schools" does not include:

361 (i) gate receipts;

362 (ii) special event admission fees;

363 (iii) bookstore sales of items that are not educational materials or supplies; and

364 (iv) except as provided in Subsection [~~25~~] (26)(a)(ii), clothing.

365 [~~26~~] (27) "Senior citizen center" means a facility having the primary purpose of
366 providing services to the aged as defined in Section 62A-3-101.

367 [~~27~~] (28) "State" means the state of Utah, its departments, and agencies.

368 [~~28~~] (29) "Storage" means any keeping or retention of tangible personal property or any

369 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale
370 in the regular course of business.

371 [~~(29)~~] (30) (a) "Tangible personal property" means:

372 (i) all goods, wares, merchandise, produce, and commodities;

373 (ii) all tangible or corporeal things and substances which are dealt in or capable of being
374 possessed or exchanged;

375 (iii) water in bottles, tanks, or other containers; and

376 (iv) all other physically existing articles or things, including property severed from real
377 estate.

378 (b) "Tangible personal property" does not include:

379 (i) real estate or any interest or improvements in real estate;

380 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;

381 (iii) insurance certificates or policies;

382 (iv) personal or governmental licenses;

383 (v) water in pipes, conduits, ditches, or reservoirs;

384 (vi) currency and coinage constituting legal tender of the United States or of a foreign
385 nation; and

386 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
387 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
388 80%.

389 [~~(30)~~] (31) (a) "Use" means the exercise of any right or power over tangible personal
390 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,
391 item, or service.

392 (b) "Use" does not include the sale, display, demonstration, or trial of that property in the
393 regular course of business and held for resale.

394 [~~(31)~~] (32) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as
395 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any
396 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"
397 for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
398 work equipment, or other railroad rolling stock.

399 [~~(32)~~] (33) "Vehicle dealer" means a person engaged in the business of buying, selling, or

400 exchanging vehicles as defined in Subsection [~~(31)~~] (32).

401 [~~(33)~~] (34) (a) "Vendor" means any person receiving any payment or consideration upon
402 a sale of tangible personal property or any other taxable transaction under Subsection
403 59-12-103(1), or to whom the payment or consideration is payable.

404 (b) "Vendor" does not mean a printer's facility described in Subsection [~~(23)~~] (24)(d).
405 Section 2. Section **59-12-104** is amended to read:

406 **59-12-104. Exemptions.**

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

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

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

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

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

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

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

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

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

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

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

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

438 (i) retail sales of Olympic merchandise;

439 (ii) except as provided in Subsection (51), admissions or user fees described in Subsection
440 59-12-103(1)(f);

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

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

445 (B) exclusively used by:

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

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

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

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

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

456 (B) exclusively used by:

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

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

461 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002

462 does not receive reimbursement;

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

466 (10) sales of medicine;

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

469 (12) sales of meals served by:

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

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

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

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

477 or

478 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
479 market value of the vehicle or vessel being sold as determined by the commission;

480 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

481 (i) machinery and equipment:

482 (A) used in the manufacturing process;

483 (B) having an economic life of three or more years; and

484 (C) used:

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

486 (II) in new or expanding operations in a manufacturing facility in the state; and

487 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

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

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

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

492 (D) do not include repairs and maintenance;

- 493 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 494 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
495 Subsection (14)(a)(ii) is exempt;
- 496 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
497 Subsection (14)(a)(ii) is exempt; and
- 498 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii)
499 is exempt;
- 500 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
501 "new or expanding operations" and "establishment"; and
- 502 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
503 commission shall:
- 504 (i) review the exemptions described in Subsection (14)(a) and make recommendations to
505 the Revenue and Taxation Interim Committee concerning whether the exemptions should be
506 continued, modified, or repealed; and
- 507 (ii) include in its report:
- 508 (A) the cost of the exemptions;
- 509 (B) the purpose and effectiveness of the exemptions; and
- 510 (C) the benefits of the exemptions to the state;
- 511 (15) sales of tooling, special tooling, support equipment, and special test equipment used
512 or consumed exclusively in the performance of any aerospace or electronics industry contract with
513 the United States government or any subcontract under that contract, but only if, under the terms
514 of that contract or subcontract, title to the tooling and equipment is vested in the United States
515 government as evidenced by a government identification tag placed on the tooling and equipment
516 or by listing on a government-approved property record if a tag is impractical;
- 517 (16) intrastate movements of:
- 518 (a) freight by common carriers; and
- 519 (b) passengers:
- 520 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
521 Classification Manual of the federal Executive Office of the President, Office of Management and
522 Budget; or
- 523 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard

524 Industrial Classification Manual of the federal Executive Office of the President, Office of
525 Management and Budget, if the transportation originates and terminates within a county of the
526 first, second, or third class;

527 (17) sales of newspapers or newspaper subscriptions;

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

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

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

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

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

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

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

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

551 (b) sales of hay;

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

554 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program,

555 7 U.S.C. Sec. 2011 et seq.;

556 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
557 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler,
558 or retailer for use in packaging tangible personal property to be sold by that manufacturer,
559 processor, wholesaler, or retailer;

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

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

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

566 (27) property upon which a sales or use tax was paid to some other state, or one of its
567 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
568 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the
569 tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

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

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

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

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

583 (32) sales of tangible personal property to persons within this state that is subsequently
584 shipped outside the state and incorporated pursuant to contract into and becomes a part of real
585 property located outside of this state, except to the extent that the other state or political entity

586 imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the
587 other state or political entity allows a credit for taxes imposed by this chapter;

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

590 (34) amounts paid for the purchase of telephone service for purposes of providing
591 telephone service;

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

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

595 (37) (a) 45% of the sales price of any new manufactured home; and
596 (b) 100% of the sales price of any used manufactured home;

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

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

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

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

603 (41) sales to a ski resort of:

604 (a) snowmaking equipment;

605 (b) ski slope grooming equipment; and

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

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

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

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

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

614 (a) photocopies; or
615 (b) other copies of records held or maintained by the state or a political subdivision of the
616 state; and

- 617 (46) (a) amounts paid:
- 618 (i) to a person providing intrastate transportation to an employer's employee to or from the
- 619 employee's primary place of employment;
- 620 (ii) by an:
- 621 (A) employee; or
- 622 (B) employer; and
- 623 (iii) pursuant to a written contract between:
- 624 (A) the employer; and
- 625 (B) (I) the employee; or
- 626 (II) a person providing transportation to the employer's employee; and
- 627 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 628 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
- 629 employee's primary place of employment;
- 630 (47) amounts paid for admission to an athletic event at an institution of higher education
- 631 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
- 632 1681 et seq.;
- 633 (48) sales of telephone service charged to a prepaid telephone calling card;
- 634 (49) (a) sales of hearing aids; and
- 635 (b) sales of hearing aid accessories;
- 636 (50) (a) sales made to or by:
- 637 (i) an area agency on aging; or
- 638 (ii) a senior citizen center owned by a county, city, or town; or
- 639 (b) sales made by a senior citizen center that contracts with an area agency on aging; [and]
- 640 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
- 641 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
- 642 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing
- 643 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
- 644 International Olympic Committee; and
- 645 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
- 646 Winter Games of 2002 shall make at least two reports during the 2000 interim:
- 647 (i) to the:

- 648 (A) Olympic Coordination Committee; and
- 649 (B) Revenue and Taxation Interim Committee; and
- 650 (ii) regarding the status of:
- 651 (A) agreements relating to the funding of public safety services for the Olympic Winter
- 652 Games of 2002;
- 653 (B) agreements relating to the funding of services, other than public safety services, for
- 654 the Olympic Winter Games of 2002;
- 655 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by the
- 656 Olympic Coordination Committee or the Revenue and Taxation Interim Committee;
- 657 (D) other issues as requested by the Olympic Coordination Committee or the Revenue and
- 658 Taxation Interim Committee; or
- 659 (E) a combination of Subsections (51)(b)(ii)(A) through (D)[-]; or
- 660 (52) (a) a sale of an item of clothing if the sale is made during a time period:
- 661 (i) beginning on or after 12:01 a.m. on the second Friday in August of each year; and
- 662 (ii) ending on or before 11:59 p.m. on the second Sunday in August of each year;
- 663 (b) notwithstanding Subsection (52)(a), beginning on July 1, 2001, through December 31,
- 664 2005, the sale of an item of clothing is exempt only if the purchase price of the item of clothing
- 665 is \$100 or less; and
- 666 (c) the exemption provided for in Subsection (52)(a) does not include amounts paid or
- 667 charged to rent an item of clothing.
- 668 Section 3. **Effective date.**
- 669 This act takes effect on July 1, 2001.

Legislative Review Note
as of 1-5-01 10:41 AM

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

Office of Legislative Research and General Counsel