

**SALES AND USE TAX - EXEMPTION FOR
SEMICONDUCTOR FABRICATING OR
PROCESSING MATERIALS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Curtis S. Bramble

This act amends the Sales and Use Tax Act to provide for an exemption beginning on January 1, 2002, through December 31, 2006, for semiconductor fabricating or processing materials, requires amounts of the exemption to be reported to the State Tax Commission, and requires the State Tax Commission to study the exemption. The act defines terms and makes technical changes. This act provides a July 1, 2001 effective date for the definitional section.

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

59-12-105, as last amended by Chapter 147, Laws of Utah 1999

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



28 indicating that the vehicle is or will be operated pursuant to both the International Registration
29 Plan (IRP) and the International Fuel Tax Agreement (IFTA);

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

32 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,
33 the holder of a certificate issued by the United States Interstate Commerce Commission.

34 (4) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device"
35 means:

36 (i) a coin-operated amusement, skill, or ride device;

37 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and

38 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
39 arcade machine, and a mechanical or electronic skill game or ride.

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

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

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

45 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
46 that does not constitute industrial use under Subsection (13) or residential use under Subsection
47 (21).

48 (6) (a) "Common carrier" means a person engaged in or transacting the business of
49 transporting passengers, freight, merchandise, or other property for hire within this state.

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

53 (ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah
54 Administrative Rulemaking Act, the commission may make rules defining what constitutes a
55 person's place of employment.

56 (7) "Component part" includes:

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

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

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

62 (d) feed, seeds, and seedlings.

63 (8) "Construction materials" means any tangible personal property that will be converted
64 into real property.

65 (9) (a) "Fundraising sales" means sales:

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

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

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

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

72 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a
73 school activity:

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

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

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

80 (10) (a) "Hearing aid" means:

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

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

83 (II) correct impaired human hearing; and

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

85 (II) affixed behind the human ear;

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

87 (iii) a telephone amplifying device.

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

89 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device

- 90 having an electronic component that is designed to be worn on the body;
- 91 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
- 92 designed to be used by one individual, including:
- 93 (A) a personal amplifying system;
- 94 (B) a personal FM system;
- 95 (C) a television listening system; or
- 96 (D) a device or system similar to a device or system described in Subsections
- 97 (10)(b)(ii)(A) through (C); or
- 98 (iii) an assistive listening device or system designed to be used by more than one
- 99 individual, including:
- 100 (A) a device or system installed in:
- 101 (I) an auditorium;
- 102 (II) a church;
- 103 (III) a conference room;
- 104 (IV) a synagogue; or
- 105 (V) a theater; or
- 106 (B) a device or system similar to a device or system described in Subsections
- 107 (10)(b)(iii)(A)(I) through (V).
- 108 (11) (a) "Hearing aid accessory" means a hearing aid:
- 109 (i) component;
- 110 (ii) attachment; or
- 111 (iii) accessory.
- 112 (b) "Hearing aid accessory" includes:
- 113 (i) a hearing aid neck loop;
- 114 (ii) a hearing aid cord;
- 115 (iii) a hearing aid ear mold;
- 116 (iv) hearing aid tubing;
- 117 (v) a hearing aid ear hook; or
- 118 (vi) a hearing aid remote control.
- 119 (c) "Hearing aid accessory" does not include:
- 120 (i) a component, attachment, or accessory designed to be used only with an:

- 121 (A) instrument or device described in Subsection (10)(b)(i); or
- 122 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
- 123 (ii) a hearing aid battery.
- 124 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
- 125 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
- 126 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or
- 127 injury;
- 128 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
- 129 purpose; and
- 130 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or
- 131 under the state plan for medical assistance under Title 19 of the federal Social Security Act.
- 132 (b) "Home medical equipment and supplies" does not include:
- 133 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
- 134 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their
- 135 professional practice;
- 136 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
- 137 (iii) hearing aids or hearing aid accessories.
- 138 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:
- 139 (i) a clinic;
- 140 (ii) a doctor's office; and
- 141 (iii) a health care facility as defined in Section 26-21-2.
- 142 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
- 143 fuels in:
- 144 (a) mining or extraction of minerals;
- 145 (b) agricultural operations to produce an agricultural product up to the time of harvest or
- 146 placing the agricultural product into a storage facility, including:
- 147 (i) commercial greenhouses;
- 148 (ii) irrigation pumps;
- 149 (iii) farm machinery;
- 150 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 151 registered under Title 41, Chapter 1a, Part 2, Registration; and

152 (v) other farming activities; and

153 (c) manufacturing tangible personal property at an establishment described in SIC Codes
154 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office
155 of the President, Office of Management and Budget.

156 (14) "Manufactured home" means any manufactured home or mobile home as defined in
157 Title 58, Chapter 56, Utah Uniform Building Standards Act.

158 (15) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

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

162 (b) a scrap recycler if:

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

165 (A) iron;

166 (B) steel;

167 (C) nonferrous metal;

168 (D) paper;

169 (E) glass;

170 (F) plastic;

171 (G) textile; or

172 (H) rubber; and

173 (ii) the new products under Subsection (15)(b)(i) would otherwise be made with
174 nonrecycled materials.

175 (16) (a) "Medicine" means:

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

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

182 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the

183 direction of a physician or paramedic.

184 (b) "Medicine" does not include:

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

186 (ii) any alcoholic beverage.

187 (17) "Olympic merchandise" means tangible personal property bearing an Olympic

188 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other

189 copyrighted or protected material, including:

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

191 (i) "Olympic";

192 (ii) "Olympiad"; or

193 (iii) "Citius Altius Fortius";

194 (b) the symbol of the International Olympic Committee, consisting of five interlocking

195 rings;

196 (c) the emblem of the International Olympic Committee Corporation;

197 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
198 mark, symbol, terminology, trademark, or other copyrighted or protected material;

199 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by the
200 Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or

201 (f) the mascot of the Olympic Winter Games of 2002.

202 (18) (a) "Other fuels" means products that burn independently to produce heat or energy.

203 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal
204 property.

205 (19) "Person" includes any individual, firm, partnership, joint venture, association,

206 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

207 municipality, district, or other local governmental entity of the state, or any group or combination

208 acting as a unit.

209 (20) "Purchase price" means the amount paid or charged for tangible personal property or
210 any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken
211 or any excise tax imposed on the purchase price by the federal government.

212 (21) "Residential use" means the use in or around a home, apartment building, sleeping
213 quarters, and similar facilities or accommodations.

214 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any
215 other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item,
216 or service by a retailer or wholesaler to a user or consumer.

217 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,
218 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or
219 more.

220 (c) "Retail sale" does not include, and no additional sales or use tax shall be assessed
221 against, those transactions where a purchaser of tangible personal property pays applicable sales
222 or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback
223 transaction by which title to such property is transferred by the purchaser-lessee to a lessor for
224 consideration, provided:

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

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

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

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

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

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

244 (i) a printer's facility with which a retailer has contracted for printing shall not be

245 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

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

252 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any
253 manner, of tangible personal property or any other taxable transaction under Subsection
254 59-12-103(1), for consideration. It includes:

255 (a) installment and credit sales;

256 (b) any closed transaction constituting a sale;

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

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

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

263 (25) (a) "Sales relating to schools" means sales by a public school district or public or
264 private elementary or secondary school, grades kindergarten through 12, that are directly related
265 to the school's or school district's educational functions or activities and include:

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

268 (ii) the sale of clothing that:

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

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

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

275 (iv) transportation charges for official school activities.

- 276 (b) "Sales relating to schools" does not include:
- 277 (i) gate receipts;
- 278 (ii) special event admission fees;
- 279 (iii) bookstore sales of items that are not educational materials or supplies; and
- 280 (iv) except as provided in Subsection (25)(a)(ii), clothing.
- 281 (26) (a) "Semiconductor fabricating or processing materials" means tangible personal
- 282 property:
- 283 (i) used primarily in the process of:
- 284 (A) (I) manufacturing a semiconductor; or
- 285 (II) fabricating a semiconductor; or
- 286 (B) maintaining an environment suitable for a semiconductor; or
- 287 (ii) consumed primarily in the process of:
- 288 (A) (I) manufacturing a semiconductor; or
- 289 (II) fabricating a semiconductor; or
- 290 (B) maintaining an environment suitable for a semiconductor.
- 291 (b) "Semiconductor fabricating or processing materials" includes a chemical, catalyst, or
- 292 other material used to:
- 293 (i) produce or induce in a semiconductor a:
- 294 (A) chemical change; or
- 295 (B) physical change;
- 296 (ii) remove impurities from a semiconductor; or
- 297 (iii) improve the marketable condition of a semiconductor.
- 298 ~~[(26)]~~ (27) "Senior citizen center" means a facility having the primary purpose of
- 299 providing services to the aged as defined in Section 62A-3-101.
- 300 ~~[(27)]~~ (28) "State" means the state of Utah, its departments, and agencies.
- 301 ~~[(28)]~~ (29) "Storage" means any keeping or retention of tangible personal property or any
- 302 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale
- 303 in the regular course of business.
- 304 ~~[(29)]~~ (30) (a) "Tangible personal property" means:
- 305 (i) all goods, wares, merchandise, produce, and commodities;
- 306 (ii) all tangible or corporeal things and substances which are dealt in or capable of being

307 possessed or exchanged;

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

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

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

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

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

314 (iii) insurance certificates or policies;

315 (iv) personal or governmental licenses;

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

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

319 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
320 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
321 80%.

322 [~~(30)~~] (31) (a) "Use" means the exercise of any right or power over tangible personal
323 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,
324 item, or service.

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

327 [~~(31)~~] (32) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as
328 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any
329 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"
330 for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
331 work equipment, or other railroad rolling stock.

332 [~~(32)~~] (33) "Vehicle dealer" means a person engaged in the business of buying, selling, or
333 exchanging vehicles as defined in Subsection [~~(31)~~] (32).

334 [~~(33)~~] (34) (a) "Vendor" means any person receiving any payment or consideration upon
335 a sale of tangible personal property or any other taxable transaction under Subsection
336 59-12-103(1), or to whom the payment or consideration is payable.

337 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(d).

338 Section 2. Section **59-12-104** is amended to read:

339 **59-12-104. Exemptions.**

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

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

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

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

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

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

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

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

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

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

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

367 (b) the exemption provided for in Subsection (8)(a) does not apply to the following sales,
368 uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an

369 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
370 Code:

371 (i) retail sales of Olympic merchandise;

372 (ii) except as provided in Subsection (51), admissions or user fees described in Subsection
373 59-12-103(1)(f);

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

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

378 (B) exclusively used by:

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

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

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

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

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

389 (B) exclusively used by:

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

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

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

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

399 (10) sales of medicine;

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

402 (12) sales of meals served by:

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

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

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

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

410 or

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

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

414 (i) machinery and equipment:

415 (A) used in the manufacturing process;

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

417 (C) used:

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

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

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

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

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

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

425 (D) do not include repairs and maintenance;

426 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

427 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
428 Subsection (14)(a)(ii) is exempt;

429 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
430 Subsection (14)(a)(ii) is exempt; and

431 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii)
432 is exempt;

433 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
434 "new or expanding operations" and "establishment"; and

435 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
436 commission shall:

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

440 (ii) include in its report:

441 (A) the cost of the exemptions;

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

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

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

450 (16) intrastate movements of:

451 (a) freight by common carriers; and

452 (b) passengers:

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

456 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
457 Industrial Classification Manual of the federal Executive Office of the President, Office of
458 Management and Budget, if the transportation originates and terminates within a county of the
459 first, second, or third class;

460 (17) sales of newspapers or newspaper subscriptions;

461 (18) tangible personal property, other than money, traded in as full or part payment of the

462 purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by
463 a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

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

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

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

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

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

484 (b) sales of hay;

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

487 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program,
488 7 U.S.C. Sec. 2011 et seq.;

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

- 493 (24) property stored in the state for resale;
- 494 (25) property brought into the state by a nonresident for his or her own personal use or
495 enjoyment while within the state, except property purchased for use in Utah by a nonresident living
496 and working in Utah at the time of purchase;
- 497 (26) property purchased for resale in this state, in the regular course of business, either in
498 its original form or as an ingredient or component part of a manufactured or compounded product;
- 499 (27) property upon which a sales or use tax was paid to some other state, or one of its
500 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
501 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the
502 tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- 503 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
504 for use in compounding a service taxable under the subsections;
- 505 (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the
506 special supplemental nutrition program for women, infants, and children established in 42 U.S.C.
507 Sec. 1786;
- 508 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
509 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
510 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual
511 of the federal Executive Office of the President, Office of Management and Budget;
- 512 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
513 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this
514 state and are not thereafter registered or used in this state except as necessary to transport them to
515 the borders of this state;
- 516 (32) sales of tangible personal property to persons within this state that is subsequently
517 shipped outside the state and incorporated pursuant to contract into and becomes a part of real
518 property located outside of this state, except to the extent that the other state or political entity
519 imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the
520 other state or political entity allows a credit for taxes imposed by this chapter;
- 521 (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where
522 a sales or use tax is not imposed, even if the title is passed in Utah;
- 523 (34) amounts paid for the purchase of telephone service for purposes of providing

- 524 telephone service;
- 525 (35) fares charged to persons transported directly by a public transit district created under
- 526 the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 527 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 528 (37) (a) 45% of the sales price of any new manufactured home; and
- 529 (b) 100% of the sales price of any used manufactured home;
- 530 (38) sales relating to schools and fundraising sales;
- 531 (39) sales or rentals of home medical equipment and supplies;
- 532 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 533 Section 72-11-102; and
- 534 (b) the commission shall by rule determine the method for calculating sales exempt under
- 535 Subsection (40)(a) that are not separately metered and accounted for in utility billings;
- 536 (41) sales to a ski resort of:
- 537 (a) snowmaking equipment;
- 538 (b) ski slope grooming equipment; and
- 539 (c) passenger ropeways as defined in Section 72-11-102;
- 540 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 541 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
- 542 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 543 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
- 544 machine;
- 545 (45) sales by the state or a political subdivision of the state, except state institutions of
- 546 higher education as defined in Section 53B-3-102, of:
- 547 (a) photocopies; or
- 548 (b) other copies of records held or maintained by the state or a political subdivision of the
- 549 state; and
- 550 (46) (a) amounts paid:
- 551 (i) to a person providing intrastate transportation to an employer's employee to or from the
- 552 employee's primary place of employment;
- 553 (ii) by an:
- 554 (A) employee; or

555 (B) employer; and
556 (iii) pursuant to a written contract between:
557 (A) the employer; and
558 (B) (I) the employee; or
559 (II) a person providing transportation to the employer's employee; and
560 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
561 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
562 employee's primary place of employment;
563 (47) amounts paid for admission to an athletic event at an institution of higher education
564 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
565 1681 et seq.;

566 (48) sales of telephone service charged to a prepaid telephone calling card;
567 (49) (a) sales of hearing aids; and
568 (b) sales of hearing aid accessories;
569 (50) (a) sales made to or by:
570 (i) an area agency on aging; or
571 (ii) a senior citizen center owned by a county, city, or town; or
572 (b) sales made by a senior citizen center that contracts with an area agency on aging; ~~and~~
573 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
574 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
575 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing
576 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
577 International Olympic Committee; and
578 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
579 Winter Games of 2002 shall make at least two reports during the 2000 interim:
580 (i) to the:
581 (A) Olympic Coordination Committee; and
582 (B) Revenue and Taxation Interim Committee; and
583 (ii) regarding the status of:
584 (A) agreements relating to the funding of public safety services for the Olympic Winter
585 Games of 2002;

- 586 (B) agreements relating to the funding of services, other than public safety services, for
587 the Olympic Winter Games of 2002;
- 588 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by the
589 Olympic Coordination Committee or the Revenue and Taxation Interim Committee;
- 590 (D) other issues as requested by the Olympic Coordination Committee or the Revenue and
591 Taxation Interim Committee; or
- 592 (E) a combination of Subsections (51)(b)(ii)(A) through (D)~~[-]; or~~
593 (52) (a) beginning on January 1, 2002, through December 31, 2006, a sale or lease of
594 semiconductor fabricating or processing materials regardless of whether the semiconductor
595 fabricating or processing materials:
- 596 (i) actually come into contact with a semiconductor; or
597 (ii) ultimately become incorporated into real property; and
- 598 (b) on or before October 1, 2005, the commission shall:
- 599 (i) review the exemption described in Subsection (52)(a) and make recommendations to
600 the Revenue and Taxation Interim Committee concerning whether the exemption should be
601 continued, modified, or repealed; and
- 602 (ii) include in the review:
- 603 (A) the cost of the exemption;
604 (B) the purpose and effectiveness of the exemption; and
605 (C) the benefits of the exemption to the state.
- 606 Section 3. Section **59-12-105** is amended to read:
- 607 **59-12-105. Certain exempt sales to be reported -- Penalties.**
- 608 (1) An owner, vendor, or purchaser shall report to the commission the amount of sales or
609 uses exempt under Subsection 59-12-104(14), (20), (40), ~~[or]~~ (41), or (52).
- 610 (2) Except as provided in Subsections (3) and (4), if the owner, vendor, or purchaser fails
611 to report the full amount of the exemptions granted under Subsection 59-12-104(14), (20), (40),
612 ~~[or]~~ (41), or (52) on the owner's, vendor's, or purchaser's original filed return, the commission shall
613 impose a penalty equal to the lesser of:
- 614 (a) 10% of the sales and use tax that would have been imposed if the exemption had not
615 applied; or
616 (b) \$1,000.

617 (3) Notwithstanding Subsection (2), the commission may not impose a penalty under
618 Subsection (2) if the owner, vendor, or purchaser files an amended return containing the amount
619 of the exemption prior to the owner, vendor, or purchaser receiving a notice of audit from the
620 commission.

621 (4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or
622 compromise a penalty imposed under this section if the commission finds there are reasonable
623 grounds for the waiver, reduction, or compromise.

624 (b) If the commission waives, reduces, or compromises a penalty under Subsection (4)(a),
625 the commission shall make a record of the grounds for waiving, reducing, or compromising the
626 penalty.

627 Section 4. **Effective date.**

628 Section 59-12-102 takes effect on July 1, 2001.

Legislative Review Note
as of 2-2-01 4:52 PM

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

Office of Legislative Research and General Counsel