

1 **SALES AND USE TAX - AGRICULTURAL**

2 **EXEMPTION**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Eli H. Anderson**

6 **This act amends the Sales and Use Tax Act to exempt from sales and use taxes certain parts**
7 **or services relating to the exemption for certain sales of tangible personal property used or**
8 **consumed primarily and directly in farming operations, and to make technical changes. This**
9 **act takes effect on July 1, 2002. § This act provides a coordination clause. §**

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

11 AMENDS:

12 **59-12-104**, as last amended by Chapter 12, Laws of Utah 2001, First Special Session

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

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

15 **59-12-104. Exemptions.**

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

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

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

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

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



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

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

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

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

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

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

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

47 (i) retail sales of Olympic merchandise;

48 (ii) except as provided in Subsection (51), admissions or user fees described in Subsection
49 59-12-103(1)(f);

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

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

54 (B) exclusively used by:

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

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

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

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

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

65 (B) exclusively used by:

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

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

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

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

75 (10) sales of medicine;

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

78 (12) (a) sales of meals served by:

79 (i) the following if the meals are not available to the general public:

80 (A) a church; or

81 (B) a charitable institution;

82 (ii) an institution of higher education if:

83 (A) the meals are not available to the general public; or

84 (B) the meals are prepaid as part of a student meal plan offered by the institution of higher
85 education; or

86 (b) inpatient meals provided at:

87 (i) a medical facility; or

88 (ii) a nursing facility;

89 (13) isolated or occasional sales by persons not regularly engaged in business, except the

90 sale of vehicles or vessels required to be titled or registered under the laws of this state in which
91 case the tax is based upon:

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

93 or

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

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

97 (i) machinery and equipment:

98 (A) used in the manufacturing process;

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

100 (C) used:

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

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

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

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

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

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

108 (D) do not include repairs and maintenance;

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

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

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

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

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

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

120 (i) review the exemptions described in Subsection (14)(a) and make recommendations to

121 the Revenue and Taxation Interim Committee concerning whether the exemptions should be
122 continued, modified, or repealed; and

123 (ii) include in its report:

124 (A) the cost of the exemptions;

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

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

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

133 (16) intrastate movements of:

134 (a) freight by common carriers; and

135 (b) passengers:

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

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

143 (17) sales of newspapers or newspaper subscriptions;

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

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

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

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

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

159 ~~[(i)]~~ (A) machinery, equipment, materials, and supplies used in a manner that is incidental
160 to farming, such as hand tools with a unit purchase price not in excess of \$250, and maintenance
161 and janitorial equipment and supplies;

162 ~~[(ii)]~~ (B) tangible personal property used in any activities other than farming, such as office
163 equipment and supplies, equipment and supplies used in sales or distribution of farm products, in
164 research, or in transportation; or

165 ~~[(iii)]~~ (C) any vehicle required to be registered by the laws of this state, without regard to
166 the use to which the vehicle is put;

167 (ii) sales of parts used in the § ~~[-repair] REPAIRS §~~ or § ~~[-replacement] RENOVATIONS §~~
167a of tangible personal property if the
168 tangible personal property is exempt under Subsection (20)(a); or

169 (iii) amounts paid or charged for services:

170 (A) for repairs or renovations of tangible personal property if the tangible personal
171 property is exempt under Subsection (20)(a); or

172 (B) to install tangible personal property if that tangible personal property is installed in
173 connection with other tangible personal property exempt under Subsection (20)(a); or

174 (b) sales of hay;

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

177 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program,
178 7 U.S.C. Sec. 2011 et seq.;

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

- 183 (24) property stored in the state for resale;
- 184 (25) property brought into the state by a nonresident for his or her own personal use or
185 enjoyment while within the state, except property purchased for use in Utah by a nonresident living
186 and working in Utah at the time of purchase;
- 187 (26) property purchased for resale in this state, in the regular course of business, either in
188 its original form or as an ingredient or component part of a manufactured or compounded product;
- 189 (27) property upon which a sales or use tax was paid to some other state, or one of its
190 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
191 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the
192 tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- 193 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
194 for use in compounding a service taxable under the subsections;
- 195 (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the
196 special supplemental nutrition program for women, infants, and children established in 42 U.S.C.
197 Sec. 1786;
- 198 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
199 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
200 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual
201 of the federal Executive Office of the President, Office of Management and Budget;
- 202 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
203 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this
204 state and are not thereafter registered or used in this state except as necessary to transport them to
205 the borders of this state;
- 206 (32) sales of tangible personal property to persons within this state that is subsequently
207 shipped outside the state and incorporated pursuant to contract into and becomes a part of real
208 property located outside of this state, except to the extent that the other state or political entity
209 imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the
210 other state or political entity allows a credit for taxes imposed by this chapter;
- 211 (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where
212 a sales or use tax is not imposed, even if the title is passed in Utah;
- 213 (34) amounts paid for the purchase of telephone service for purposes of providing

- 214 telephone service;
- 215 (35) fares charged to persons transported directly by a public transit district created under
- 216 the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 217 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 218 (37) (a) 45% of the sales price of any new manufactured home; and
- 219 (b) 100% of the sales price of any used manufactured home;
- 220 (38) sales relating to schools and fundraising sales;
- 221 (39) sales or rentals of home medical equipment and supplies;
- 222 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 223 Section 72-11-102; and
- 224 (b) the commission shall by rule determine the method for calculating sales exempt under
- 225 Subsection (40)(a) that are not separately metered and accounted for in utility billings;
- 226 (41) sales to a ski resort of:
- 227 (a) snowmaking equipment;
- 228 (b) ski slope grooming equipment; and
- 229 (c) passenger ropeways as defined in Section 72-11-102;
- 230 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 231 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
- 232 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 233 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
- 234 machine;
- 235 (45) sales by the state or a political subdivision of the state, except state institutions of
- 236 higher education as defined in Section 53B-3-102, of:
- 237 (a) photocopies; or
- 238 (b) other copies of records held or maintained by the state or a political subdivision of the
- 239 state; ~~and~~
- 240 (46) (a) amounts paid:
- 241 (i) to a person providing intrastate transportation to an employer's employee to or from the
- 242 employee's primary place of employment;
- 243 (ii) by an:
- 244 (A) employee; or

245 (B) employer; and
246 (iii) pursuant to a written contract between:
247 (A) the employer; and
248 (B) (I) the employee; or
249 (II) a person providing transportation to the employer's employee; and
250 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
251 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
252 employee's primary place of employment;
253 (47) amounts paid for admission to an athletic event at an institution of higher education
254 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
255 1681 et seq.;

256 (48) sales of telephone service charged to a prepaid telephone calling card;
257 (49) (a) sales of hearing aids; and
258 (b) sales of hearing aid accessories;
259 (50) (a) sales made to or by:
260 (i) an area agency on aging; or
261 (ii) a senior citizen center owned by a county, city, or town; or
262 (b) sales made by a senior citizen center that contracts with an area agency on aging;
263 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
264 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
265 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing
266 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
267 International Olympic Committee; and
268 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
269 Winter Games of 2002 shall make at least two reports during the 2000 interim:
270 (i) to the:
271 (A) Olympic Coordination Committee; and
272 (B) Revenue and Taxation Interim Committee; and
273 (ii) regarding the status of:
274 (A) agreements relating to the funding of public safety services for the Olympic Winter
275 Games of 2002;

276 (B) agreements relating to the funding of services, other than public safety services, for
277 the Olympic Winter Games of 2002;

278 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by the
279 Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

280 (D) other issues as requested by the Olympic Coordination Committee or the Revenue and
281 Taxation Interim Committee; or

282 (E) a combination of Subsections (51)(b)(ii)(A) through (D);

283 (52) (a) beginning on July 1, 2001, through June 30, 2004, and subject to Subsection
284 (52)(b), a sale or lease of semiconductor fabricating or processing materials regardless of whether
285 the semiconductor fabricating or processing materials:

286 (i) actually come into contact with a semiconductor; or
287 (ii) ultimately become incorporated into real property;

288 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
289 described in Subsection (52)(a) is exempt;

290 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease described
291 in Subsection (52)(a) is exempt; and

292 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or
293 lease described in Subsection (52)(a) is exempt; and

294 (c) each year on or before the November interim meeting, the Revenue and Taxation
295 Interim Committee shall:

296 (i) review the exemption described in this Subsection (52) and make recommendations
297 concerning whether the exemption should be continued, modified, or repealed; and

298 (ii) include in the review under this Subsection (52)(c):

299 (A) the cost of the exemption;

300 (B) the purpose and effectiveness of the exemption; and

301 (C) the benefits of the exemption to the state;

302 (53) an amount paid by or charged to a purchaser for accommodations and services
303 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
304 59-12-104.2; or

305 (54) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
306 sports event registration certificate in accordance with Section 41-3-306 for the event period

307 specified on the temporary sports event registration certificate.

308 Section 2. **Effective date.**

309 This act takes effect on July 1, 2002.

309a **§ Section 3. Coordination clause.**

309b **IF THIS BILL AND H.B. 51, SALES AND USE TAX - TAXABILITY OF PARTS AND LABOR, OR**
309c **ANY SUBSTITUTE TO H.B. 51, BOTH PASS, IT IS THE INTENT OF THE LEGISLATURE THAT THE**
309d **AMENDMENTS TO SUBSECTION 59-12-104(20) IN H.B. 51 SUPERSEDE THE AMENDMENTS TO**
309e **SUBSECTION 59-12-104(20) IN THIS BILL. §**

Legislative Review Note
as of 12-14-01 1:35 PM

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

Office of Legislative Research and General Counsel